

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.14009 of 2020

Dr.S.Arunkumar

...Petitioner

Vs.

1. The Director of Vigilance and Anti-Corruption,  
No.293 MKN Road,  
Collector's Nagar,  
Alandur, Chennai-600 016.

2. The Superintendent of Police,  
CB CID,  
Egmore,  
Chennai-600 008.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transfer the complaint dated 20.12.2019 from the 1<sup>st</sup> respondent to the 2<sup>nd</sup> respondent and direct them to investigate the complaint made by the petitioner in accordance with law.

For Petitioner : Mr.B.Harikrishnan  
For Respondents: Mr.C.Iyyappa Raj,  
Additional Public Prosecutor

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ORDER

This Criminal Original Petition has been filed to transfer the complaint dated 20.12.2019 from the file of the 1<sup>st</sup> respondent to the file of the 2<sup>nd</sup> respondent and direct him to investigate the complaint in accordance with law.

2.(i)The gist of the complaint dated 20.12.2019 is that the petitioner is one of the resident in flat No.11-A in ground floor, M.I.G Block, P.T.Rajan Salai, K.K.Nagar, Chennai. Originally, the flats were allotted to four persons, two persons in the ground floor and two in the first floor, each flat having a built-up space of 0876 sq.ft with undivided share for all the allottees to the extent of 6,800 sq.ft. The flats were numbered as 11-A and 11-B in ground floor and 11-C and 11-D in first floor.

(ii)Originally, the flat No.11-A in the ground floor allotted to K.Sangunni and the Tamil Nadu Housing Board on 15.03.1990 executed a sale deed in document No.1051 of 1991. The said K.Sangunni sold the flat No.11-A to the petitioner and the petitioner, who is a retired Oncologist purchased through document No.5678 of 1993, dated 30.12.1993, thereon, the petitioner has been residing in the said flat.

(iii)The flat No.11-B in ground floor was purchased by P.G.Srinivasalu by document No.321 of 1999, dated 22.02.1999, the said P.G.Srinivasalu settled the flat No.11-B to his wife S.Sasikala by way of settlement deed by document No.2837 of 2004, dated 13.10.2004. The said S.Sasikala had settled the property (flat No.11-B) in favour of her daughter P.S.Malathi by document No.941 of 2008.

(iv)The flat No.11-C in first floor was purchased by V.Jayaraman through document No.453 of 1986, dated 15.12.1985. The said V.Jayaraman sold the flat No.11-C to and in favour of V.S.Srinivasan through document No.695 of 1987, dated 26.02.1987. The said V.S.Srinivasan had sold the property to A.Ashwin Kumar, the son of the petitioner.

(v)The flat No.11-D in first floor was purchased by S.D.Verma in document No.31877 of 1991. The said S.D.Verma sold the property to Alli Govindarajan through document No.4698 of 1995, dated 30.08.1995. Originally, in the sale deed executed by TNHB as well, the subsequent sale and settlement of these documents, the built-up area conveyed was 0876 sq.ft and undivided share of the four flats was 6,800 sq.ft, were enjoyed by all the four flat owners with common amenities and facilities. This being the case, one A.M.Vikramaraja and his wife V.Sugantha had purchased the property in flat 11-B in ground floor from P.S.Malathi, who is the daughter of P.G.Srinivasalu and S.Sasikala. After purchasing the property, they put up construction in the open common vacant area, which was objected by the petitioner. The main door for sewage and the metro water connection were sealed by putting up concrete floor. The petitioner objected the same and thereafter, he filed a Public Interest Litigation before this Court in W.P.No.12566 of 2017 and one V.B.R.Menon, Advocate filed Public Interest Litigation in W.P.No.2698 of 2017. The First Division Bench as well the Division Bench of this Court had directed the authorities to remove the concrete floor and also directed, not to put up any construction in violation of rules and regulations. Further, one Rangabashyam filed Civil Suit in O.S.No.8771 of 1997, the petitioner and the said Alli Govindarajan filed O.S.No.2008 of 2017 before the learned XII Assistant Judge, City Civil Court, Chennai.

(vi)The sum and substances of all the litigations is that the purchaser of flat 11-B in ground floor A.M.Vikramaraja, who is a Trader Association Leader and an influential person, not to encroach and put up any construction in the common area of 6,800 sq.ft, which is allotted to all four flat owners for their common use. This being the case, the said V.Sugantha, wife of A.M.Vikramaraja purchased the property through document No.1724 of 2018, dated 12.07.2018 and occupied the common place and caused disturbance to peaceful enjoyment of other flat owners. Whenever there was any encroachment or violation of law, the petitioner had been raising objection and approaching the Court regularly.

(vii)The petitioner's father late M.Sanjeevi Rao was awarded two Gallantry medals in second world war for his exemplary service in the Army. The wife of M.Sanjeevi Rao, K.Prema is residing with the petitioner. Due to encroachment and unlawful activities of A.M.Vikramaraja, they are facing fear and loss of peace in their life. In one such occasion, the petitioner's mother was hit on her head, which necessitated MRI scan and thereafter, she leading a life with assistance of others. Thus a person, who is fighting for his lawful rights and peaceful life, as enshrined in the Constitution is deprived of his right. The petitioner is facing threat of assault, since he is resisting a powerful person, who is having men and muscle power and attempting to encroach upon the open space area. The officials in Tamil Nadu Housing Board and Sub Registrar Office, Ashok Nagar are acting in connivance with the said A.M.Vikramaraja.

(viii)Further, it is seen that one V.Prabhakararaja, who is no way connected with the property, addressed a letter to the Executive Engineer-cum-Administrative Officer, K.K.Nagar Division, Tamil Nadu Housing Board, Chennai on 27.03.2017. On the very next day, i.e., on 28.03.2017, a reply is sent by the Executive Engineer-cum-Administrative Officer, K.K.Nagar Division, Tamil Nadu Housing Board, Chennai in கே.கே.நகர்/நி.அபி-1097-2017 to V.Prabhakararaja informing that the undivided share in the land in respect of flat No.11-B in survey No.276, Block No.M-11, P.T.Rajan Road, K.K.Nagar, Chennai is with 1664 sq.ft common area and the letter is issued for the purpose of availing loan. On what authority and what basis such a letter has been given is not known. Using this letter, a sale in document No.1724 of 2018, dated 12.07.2018 was executed by P.S.Malathi, who is the daughter of P.G.Srinivasalu and S.Sasikala, in favour of V.Sugantha wife of A.M.Vikramaraja. The sale deed in document No.1724 of 2018 containing 29 pages in which, the page No.21 is the letter of the Executive Engineer-cum-Administrative Officer, Tamil Nadu Housing Board, Chennai and thereby, creating

and attempting to legalize the undivided share of 1664 sq.ft as though, the said V.Sugantha wife of A.M.Vikramaraja was allotted to flat No.11-B in survey No.276, Block No.M-11, P.T.Rajan Road, K.K.Nagar, Chennai. This has embolden the said A.M.Vikramaraja to encroach upon the property and construct shopping complex in that area and thereby, A.M.Vikramaraja put up concrete floor and demolished the wall and made preparations for putting up pile and encroached upon the open space by putting steel pillars. By any means, A.M.Vikrama Raja, who is the husband of Sugantha, is attempting to construct a shopping complex in UDS of 1664 sq.ft.

(ix) In the letter dated 28.03.2017 in கே.கே.ந.கோ/நி.அ.பி/1097-2017, issued by the Executive Engineer-cum-Administrative Officer of Tamil Nadu Housing Board to V.Prabhakararaja is by fraudulent means and the said V.Prabhakararaja is a total stranger. Similarly, it is not known, how the Sub Registrar, Ashok Nagar, Chennai registered a sale deed dated 12.07.2018 as document No.1724 of 2018, wherein the survey number is mentioned wrongly as survey No.276 and that to, by relying upon the letter கே.கே.ந.கோ/நி.அ.பி-1097-2017, dated 28.03.2017 purportedly issued by the Executive Engineer-cum-Administration Officer, TNHB, Chennai to V.Prabhakararaja, who is a total stranger. There have been some confusion with regard to survey number, which is attempted to be taken advantage by the encroachers. On earlier occasion, the Executive Engineer-cum-Administrative Officer, K.K.Nagar Division, Chennai had sent a letter in Ref.No.க.க.நகர் கோட்டம்/நி.அ.பி/7270-07 to the petitioner and informing that the open space is a common area, which is common to all the four flat owners, that apart this Court on three occasions dealt with common area in block M-11, P.T.Rajan Salai, held that "Setback space" around MIG Block-11 to be a common area (which is collectively owned by all the flat owners).

(x) Thus, the officials of the Tamil Nadu Housing Board and the Sub Registrar, Ashok Nagar, are hand in glove with the persons with vested interest in creating a document by registering the sale deed 12.07.2018 as document No.1724 of 2018 on the strength of the letter in Ref.No.கே.கே.ந.கோ/நி.அ.பி-1097-2017, dated 28.03.2017 purportedly issued by the Executive Engineer-cum-Administrative Officer, TNHB, Chennai to V.Prabhakararaja, who is a total stranger.

3. The learned counsel for the petitioner filed the typed set of papers and submitted that the petitioner sent a complaint dated 20.12.2019, elaborating all these facts and the misdeeds committed by the Tamil Nadu Housing Board and Registration Department officials. Without conducting any investigation, the 1<sup>st</sup> respondent by letter dated 07.01.2020 in Petn.No.14128/2019/HR/CC-HQ informed the petitioner that the

Directorate received the petition on 24.12.2019 and forwarded the same to the Managing Director, Tamil Nadu Housing Board, No.493, Anna Salai, Nandanam, Chennai-35 and a copy sent to the Inspector General of Registration, No.100, Santhome High Road, Foreshore Estate, Chennai-28 for necessary action. It was surprising for the petitioner to receive such a communication, since the petitioner made specific allegation against the officials of Tamil Nadu Housing Board and the Sub Registrar Office, Ashok Nagar, Chennai of their illegal acts for undue advantage. Hence, the petitioners seeks transfer of his complaint dated 20.12.2019 to the file of the 2<sup>nd</sup> respondent.

4.The learned Additional Public Prosecutor appearing for the 1<sup>st</sup> respondent filed counter affidavit and submitted that the complaint of the petitioner dated 20.12.2019 was received by the Directorate on 24.12.2019. From the complaint, it is seen that the allegations were levelled against the Tamil Nadu Housing Board and Sub Registrar, Ashok Nagar, Chennai for having committed irregularities. The petition was scrutinized in the office of DVAC and forwarded to Managing Director of Tamil Nadu Housing Board, Anna Salai, Nandanam, Chennai vide Ref.No.14128/2019/HB/CC-HQ, dated 07.01.2020 and a copy marked to Inspector General of Registration, Chennai. The learned counsel further submitted that since the allegation requires verification of documents by the concerned department, the Managing Director of Tamil Nadu Housing Board, Anna Salai, Nandanam, Chennai is competent authority to look into the act upon such petition, as per instructions issued in Govt.Memo.No.1356/64/2, Public (Services-B), dated 08.04.1964 and incorporated in Para 10(3) of the Manual of DVAC which runs as follows:-

"Petitions which contains allegation of corruption, Misconduct or irregularities of a nature on which the Director considers that the Directorate need not initiate action, will be forwarded to the Heads of the Departments concerned".

5.The learned Additional Public Prosecutor further submitted that if any communication is received from TNHB, as well the Inspector General of Registration about the complicity of the officials, the 1<sup>st</sup> respondent would take necessary action in this regard.

6.This Court considered the rival submissions and perused the materials available on record.

7.It is seen that the flat No.11-A in the ground floor allotted to K.Sangunni and the Tamil Nadu Housing Board on 15.03.1990 executed a sale deed by document No.1051 of 1991.

The said K.Sangunni sold the flat No.11-A to the petitioner and the petitioner, who is a retired Oncologist purchased through document No.5678 of 1993, dated 30.12.1993, from thereon, the petitioner has been residing in the said flat. The flat No.11-B in ground floor was purchased by P.G.Srinivasalu by document No.321 of 1999, dated 22.02.1999, the said P.G.Srinivasalu settled the flat No.11-B to his wife S.Sasikala by way of settlement deed by document No.2837 of 2004, dated 13.10.2004. The said S.Sasikala had settled the property (flat No.11-B) in favour of her daughter P.S.Malathi by document No.941 of 2008. The flat No.11-C in first floor was purchased by V.Jayaraman through document No.453 of 1986, dated 15.12.1985. The said V.Jayaraman sold the flat No.11-C to and in favour of V.S.Srinivasan through document No.695 of 1987, dated 26.02.1987. The said V.S.Srinivasan had sold the property to A.Ashwin Kumar, the son of the petitioner. The flat No.11-D in first floor was purchased by S.D.Verma in document No.31877 of 1991. The said S.D.Verma sold the property to Alli Govindarajan through document No.4698 of 1995, dated 30.08.1995. The built-up area conveyed was 0876 sq.ft and undivided share for the four flats was 6,800 sq.ft, which are to be enjoyed by all the four flat owners with common amenities and facilities.

8.It is a known fact that now the value of the property has increased manifold, which runs to several crores. By purchasing the property in flat No.11-B, the said A.C.Vikramaraja, husband of V.Sugantha entered into the property, came in possession of the flat, as well the open common area, which is now being attempted to construct commercial shopping complex, for which preparations were made. The petitioner has been fighting against the conversion of residential flat into commercial one right from the beginning and he has been approaching this Court as well Civil Court by filing cases in this regard. In fact, during one such occasion, the petitioner's mother was assaulted and got treatment and now, she has become immobilized. The petitioner is an oncologist and his father late M.Sanjeevi Rao was awarded two Gallantry medals in second world war for his exemplary service in the Army and there is no reason to create doubt over the petitioner's contention and his intention. On the other hand, the Tamil Nadu Housing Board on the same day of application of one V.Prabhakararaja, issued a letter stating that flat No.11-B is with 1664 sq.ft of undivided share. The request of V.Prabhakararaja was made on 27.03.2017 and on the very next day i.e., on 28.03.2017, the Executive Engineer-cum-Administration Officer issued the letter in Ref.No.கே.கே.ந.கோ/நி.அபி-1097-2017, which is extracted as follows:-

“கே.கே.நகர், பி.டி.ராஜன் சாலையில், புல எண்.276 பகுதியில், பிளாக் எண்.ஆ/11/ன் குடியிருப்பு எண்.அ(ஆ)-க்கு பிரிக்கப்படாத பாகத்தின் அளவு (ருனாளு) 1664 சதுர அடி (ஏறத்தாழ) என்றும். இதனை வங்கியில் இருந்து கடனுதவி பெறுவதற்காக மட்டும் எடுத்துக்

கொள்ளலாம் என்று தெரிவித்துக் கொள்ளப்படுகிறது.”

9.On the strength of the above letter in Ref.No.கே.கே.ந.கோ/நி.அபி-1097-2017, dated 28.03.2017, the Sub Registrar, Ashok Nagar, Chennai has registered the sale deed, wherein the undivided share is mentioned as 1664 sq.ft and the survey number is 276. This sale deed is dated 12.07.2018 in document No.1724 of 2018, thereby the said A.M.Vikramaraja claims right over the said property of 1664 sq.ft, which is valued around several crores.

10.Thus, the Executive Engineer-cum-Administrative Officer, K.K.Nagar Division, Tamil Nadu Housing Board, Chennai and the Sub Registrar, Ashok Nagar, Chennai had projected and given authority and right over the common area to the purchaser of the property of flat No.11-B. This Court time and again held that the common area ought not to be encroached upon, in which no illegal construction to be constructed. In this case, the encroachers were permitted to put up commercial building as per their wish. However, mighty the person, the law is above him.

11.The Vigilance and Anti Corruption is to wakeup and not to shed away with their duties on the pretext that the complaint of the petitioner dated 20.12.2019 is forwarded to Managing Director of Tamil Nadu Housing Board, Anna Salai, Nandanam, Chennai vide Ref.No.14128/2019/HB/CC-HQ, dated 07.01.2020 and to Inspector General of Registration, Chennai for necessary action and awaiting for their opinion, which is not proper and it would only embolden the officials to commit such illegal acts.

12.In view of the above facts and circumstances, this Court is of the considerate view that the 1<sup>st</sup> respondent to register a case on the complaint of the petitioner dated 20.12.2019 and proceed with the investigation.

13.This Criminal Original Petition is disposed of with the above observation.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Director of Vigilance and Anti-Corruption,  
No.293 MKN Road,  
Collector's Nagar,  
Alandur, Chennai-600 016.

2. The Superintendent of Police,  
CB CID,  
Egmore,  
Chennai-600 008.

3. The Public Prosecutor,  
High Court, Madras.

+lcc to M/s.B.Harikrishnan, Advocate, S.R.No.31983

CrI.O.P.No.14009 of 2020

AD(CO)  
RV(07/12/2020)



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