

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.11.2020

PRONOUNCED ON : 03.12.2020

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. No. 4376 of 2014 & M.P. No.1 of 2014

B. Senthil Raj

Petitioner

vs.

- 1 State by Inspector of Police  
Central Crime Branch  
Chennai Team No.XVIII  
EVK Sampathy Road  
Vepery  
Chennai 600 007
  - 2 S.P. Sathasivam  
represented by his Power Agent Ramakrishnan  
No.9/2B Mylai Ranganathar Street  
T. Nagar, Chennai 600 017
- Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records in Cr. No.415 of 2011 on the file of the Inspector of Police, Central Crime Branch, Chennai Team No.XVIII and quash the same.

For petitioner Mr. V. Lakshmi Narayanan  
for Mr. B. Vijay  
For R1 Mrs. P. Kritika Kamal  
Govt. Advocate (CrI. Side)  
For R2 Mr. D. Veerasekaran

ORDER

This is a textbook case to demonstrate as to how the judicial system can be misused to prevent another from reaping the fruits of his gains.

2 The property, which is the subject matter of the dispute, is a land measuring around 2,400 sq. ft. or so in S.No.74 Part in Valasarawalkam Village. This piece of land was a part of a larger extent of land in the same survey number that belonged to one Poongavanam Ammal. The Revenue authorities noticed that Poongavanam Ammal was having land in excess of the extent prescribed by law and therefore, they declared 4,050 sq. m. of land as excess holding under the Tamil Nadu Urban Land Ceiling and Regulation Act vide order dated 29.05.1989.

3 One Rajendran sold 2,400 sq. ft. of the land in  
<https://hcservices.ecourts.gov.in/hcservices/>

S.No.74 Part, to one Shanthi by a deed of sale dated 07.12.1989 registered as Document No.4628 of 1989. Shanthi, in turn, sold the said land to one Sadasivam (de facto complainant) by a deed of sale dated 05.06.1996 registered as Document No.2852 of 1996.

4 When Sadasivam (de facto complainant) came to know that the land he had purchased was declared as excess holding under the Tamil Nadu Urban Land Ceiling Regulation Act, he approached the Government requesting conferment of title on him in respect of the said land on the ground that he is an innocent purchaser. Like Sadasivam (de facto complainant), there were around 43 others who had petitioned the Government for similar relief. The Government considered all their requests and vide G.O. Ms.No.136, Revenue (ULCI)(2) Department dated 27.04.2009 (for brevity "G.O.Ms.No.136"), regularised the cases of the innocent purchasers, including that of Sadasivam (de facto complainant).

5 In pursuance of the said Government Order, when Sadasivam (de facto complainant) went to occupy his land, he was shocked to find Arumuga Thangaraj (A.1) and Senthil Raj (A.2) preventing him from occupying his land and therefore, he lodged a complaint, based on which, the Valasarawalkam police initially registered a case in Cr. No.229 of 2007 under Sections 448 and 506(II) IPC, but, closed the case without doing anything.

6 Therefore, Sadasivam (de facto complainant), through his power agent Ramakrishnan, filed a petition under Section 156(3) Cr.P.C. in the Court of Judicial Magistrate No.I, Poonamallee and on the orders of the learned Magistrate, the Central Crime Branch registered a case in Cr. No.415 of 2011 on 19.09.2011 under Sections 420,465,467,468,471 and 474 IPC against Arumuga Thangaraj (A.1) and Senthil Raj (A.2), for quashing which, Senthil Raj (A.2) has preferred the instant criminal original petition and has obtained stay of investigation and since then, this case had been in the cold storage.

7 Heard Mr. V. Lakshmi Narayanan, learned counsel representing Mr. B. Vijay, learned counsel on record for Senthil Raj (A.2), Mr.Veerasekaran, learned counsel for Sadasivam (de facto complainant) and Mrs. P. Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the first respondent/State.

8 Mr. Lakshmi Narayanan laboriously took this Court through the various proceedings of the Revenue authorities to show that Senthil Raj (A.2) is not an interloper, but a landless person, whose request for allotment of the land was under active consideration of the Government as the Revenue officials who had inspected the land had sent favourable reports to the Government. He contended that Jayadevi, wife of

Senthil Raj (A.2) and Kothai, wife of Arumuga Thangaraj (A.2) had applied to the Government for allotment of land in Survey No.74 Part to them as they were landless persons and pursuant thereto, the Revenue officials, who inspected the site, have also given reports favourable to them way back in the year 2007 itself; while that being so, regularisation of the purchases made by persons like Sadasivam on the ground that they are innocent purchasers is not legal and therefore, Senthil Raj (A.2) has filed W.P.No.12705 of 2013 in the High Court challenging G.O. Ms.No.136 and has obtained an order of interim stay on 26.04.2013. It is his further contention that Kothai, wife of Arumuga Thangaraj (A.1) has also filed a similar writ petition in W.P. No.12486 of 2013 and both the writ petitions are pending. Further, according to him, a suit has been filed in O.S. No.357 of 2006 by Senthil Raj (A.2) in the Court of District Munsif, Poonamallee, against Sadasivam (de facto complainant), for an order of interim injunction restraining the latter from dispossessing him and an order of interim injunction also has been passed in I.A. No.1251 of 2001 on 06.11.2007; thus, when a writ petition and a suit are pending, registration of the present FIR is clearly an abuse of process of law and hence, the same requires to be quashed.

9 Mrs. Kritika Kamal submitted that after registration of the FIR in CCB Cr. No.415 of 2011, the police arrested Senthil Raj (A.2) on 22.09.2011 and examined him. She also submitted the case diary containing the confession statement of Senthil Raj (A.2) and the statements of other witnesses. She further brought to the notice of this Court that in the meanwhile Arumuga Thangaraj (A.1) has died.

10 At this juncture, this Court cannot disclose the contents of the case diary and suffice it to say that there are prima facie materials to show that Arumuga Thangaraj (A.1) and Senthil Raj (A.2) had planned to grab the lands that were vested with the Government after the same was declared as excess holding by Poongavanam Ammal under the Tamil Nadu Urban Land Ceiling and Regulation Act and in pursuance of this design, they created certain documents.

11 Mr. Veerasekaran, learned counsel for Sadasivam (de facto complainant) supported the stand of the State contending that Arumuga Thangaraj (A.1), his wife Kothai, Senthil Raj (A.2) and his wife Jayadevi are all land grabbers and when there are prima facie materials in the FIR against them, the same should not be quashed.

12 This Court gave its anxious consideration to the rival submissions.

13 The fact remains that the Government has gone through the entire records and vide G.O.Ms.No.136, regularised the ownership of 44 persons, including that of Sadasivam (de facto complainant) on the ground that they were

all innocent purchasers. After all, the land belongs to the Government and they are perfectly entitled to take any just decision in this regard.

14 Further, during the course of arguments, when this Court posed a pointed question to Mr. V. Lakshmi Narayanan and Mr. B. Vijay, advocates, as to whether Senthil Raj (A.2) has disclosed in his affidavit in W.P. No.12705 of 2013 that a case in CCB Cr. No.415 of 2011 was registered by the police against him; that he (A.2) was arrested by the police on 22.09.2011; that he (A.2) was remanded in custody and thereafter, released on bail, both of them remained silent and pleaded that they will check up the records and let this Court know.

15 However, this Court called for the records from the Registry in W.P. Nos.12705 and 12486 of 2013 and found that Senthil Raj (A.2) has not whispered a word about the registration of the FIR in CCB Cr. No.415 of 2011 against him nor about his arrest or remand in custody. This, according to this Court, is a clear suppression of fact. Had Senthil Raj (A.2) disclosed truly to this Court during the hearing of W.P. No.12705 of 2013 about the registration of the FIR against him and also about his arrest, it is doubtful if this Court would have granted interim stay of G.O.Ms.No.136, which regularised the purchases by persons like Sadasivam (de facto complainant). The irony is from 2013 to 2020, both the writ petitions have been kept in cold storage. Thus, as stated in the opening paragraph of this order, it is apparent that in our judicial system, a person can be deprived of his property by involving him into multifarious litigations and thereafter, tire him out either to sell the property for a song or abandon it and run away.

16 Mr. Lakshmi Narayanan contended that Sadasivam (de facto complainant) had purchased only after the property was declared as excess holding by Poongavanam Ammal and therefore, he had no title. This argument lacks substance for the simple reason that Sadasivam (de facto complainant) was not claiming title through Poongavanam Ammal, but was pleading with the Government for mercy, along with others, to regularise his purchase. In other words, Sadasivam (de facto complainant) knew that he had no legal title and therefore, he approached the Government, along with several others, on whom the property vested, and obtained orders of regularisation.

17 In view of the above discussion, this criminal original petition fails and is accordingly dismissed.

18 The police are directed to proceed with the investigation in CCB Cr.No.415 of 2011 and find out who are the other usurpers in this land grabbing adventure and bring them to book. Further, the police, with the help of Revenue officials, shall demolish the encroachments made in the land

in question. A copy of this order shall be marked to the Deputy Registrar (Writs) to be placed along with the bundle in W.P. No.12705 of 2013, because, a Judge dealing with cases in one jurisdiction, is seldom informed about the developments of the connected case in the other jurisdiction. The Deputy Registrar (Writs) is further directed to ensure that the bundles in W.P. No.12705 of 2013 and 12486 of 2013 do not go missing and are kept in safe custody.

Further, the Hon'ble Chief Justice being the master of the roster, the Registrar (Judicial) is directed to get necessary orders as to before which learned Judge, W.P. Nos.12705 of 2013 and 12486 of 2013 have to be listed as "specially ordered cases", for expeditious disposal.

Sd/-

Asst. Registrar (cs)

//True Copy//

Sub Asst. Registrar

cad

To

- 1 The Registrar (Judicial)  
Madras High Court  
Chennai 600 104
- 2 The Inspector of Police  
Central Crime Branch  
Chennai Team No.XVIII  
EVK Sampathy Road  
Vepery  
Chennai 600 007
- 3 The Public Prosecutor  
Madras High Court  
Chennai 600 104
- 4 The Deputy Registrar (Writs)  
Madras High Court  
Chennai 600 104

+4cc to M/s. B. Vijay, Advocate in Sr.No.39212

+1cc to Mr. D. Veerasekaran, Advocate Sr.No.39008

CrI.O.P. No. 4376 of 2014

VC (19/12/2020)