

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :30.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. O.P. NO.10520 OF 2014

AND

CRL. M.P. NO.1 OF 2014

R.Subramanian

... Petitioner

Vs.

1. The Inspector of Police,
Central Crime Branch - Team XVII,
Vepery,
Chennai - 600 007.

2. T.Vasantha

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and quash the case in Crime No.278 of 2012 pending investigation on the file of the Central Crime Branch - Team XVII, Vepery, Chennai.

For Petitioner : Mr.T.Gopinathan

For Respondents: Mr. C.Iyyapparaj, APP for R-1
Mr. R.Srinivas, for R-2

ORDER

The present petition has been filed by the petitioner for quashment of the case in crime No.278 of 2012 pending on the file of the Central Crime Branch - Team XVII, Vepery, Chennai.

2. It is the crux of the complaint lodged against the petitioner by the 2nd respondent that the landed property, had been purchased by the 2nd respondent/defacto complainant on 6.3.97 by way of a registered sale deed. The 2nd respondent has further averred that the landed property was not sold to one Vijaya by way of a registered sale deed on 5.10.95 and by impersonating the said Komala Bai, the said sale deed has been executed. It is the further averment of the 2nd respondent that the said Vijaya sold the lands to one Rajeswari by way of a registered sale deed on 7.9.2000. Due to the above

transactions, the 2nd respondent had filed a suit in O.S. No.216/04 on the file of the District Munsif, Alandur, seeking permanent injunction and the said suit is pending.

3. Pending the suit, the 2nd respondent filed a writ petition seeking a direction to the Tahsildar, Tambaram, to issue patta based on her application dated 26.5.06. This Court, in the said writ petition, had directed the 2nd respondent to file necessary application before the Tahsildar, Tambaram with a further direction to the said authority to pass orders in accordance with law. It is the case of the 2nd respondent that pursuant to her application, no orders have been passed with regard to issuance of patta in her name.

4. It is the further averment of the 2nd respondent that the said Rajeswari, had, in turn, sold the landed property by executing a sale deed in favour of the petitioner on 5.8.11, prompting the 2nd respondent to prefer the complaint on the file of the 1st respondent.

5. Learned counsel appearing for the petitioner submitted that the transactions of sale in respect of Vijaya, Rajeswari and finally the petitioner are all matters of record and that the revenue records also reveal their names as the subsequent purchasers of the property. It is the submission of the learned counsel for the petitioner that in the suit instituted by the 2nd respondent, which has been filed only as against Komala Bai and Rajeswari, a memo was filed that the suit is not being pressed, which was due to the fact that the 2nd respondent received a sum of Rs.10 Lakhs from the said Rajeswari and in fact, the 2nd respondent had threatened the petitioner to part with a like sum and since the petitioner did not heed to the said request, the complaint has been filed. It is the submission of the learned counsel for the petitioner that the dispute is purely civil in nature and that the petitioner is a bona fide purchaser and if at all, the averments of the 2nd respondent are true, it has to be agitated only before the civil court by filing necessary suit and filing of criminal complaint is only an arm twisting tactic on the part of the 2nd respondent to make the petitioner to part with a hefty sum and, therefore, the transaction, being purely civil in nature, the complaint at the behest of the 2nd respondent deserves to be quashed.

6. Per contra, learned counsel appearing for the 2nd respondent vociferously contended that the bogus transaction by impersonation came to the knowledge of the defacto complainant, prompting her to file the suit and pending the suit, the property has changed hands twice, which the 2nd respondent came to know through the encumbrance certificate and as the multifarious transactions, at a later stage, would create a

problem for the 2nd respondent to have her bona fide purchase clothed with several litigations, the 2nd respondent has resorted to file the complaint, as all the transactions have been done only with a clear view to defeat the rights of the 2nd respondent to her rightful title.

7. It is the further submission of the learned counsel for the 2nd respondent that the transactions of sale by Vijaya and Rajeswari are sham and it is a land grabbing racket, to defeat the rights of the 2nd respondent. In this regard suits have been filed by the 2nd respondent for permanent injunction against Vijaya and Rajeswari. It is the further submission of the learned counsel for the 2nd respondent that the filing of the suit will in no way preclude the 2nd respondent from filing a criminal complaint as the acts of the purchasers, who are associates in a land grabbing racket, definitely brings the case within the purview of criminal law and, therefore, the 2nd respondent is not estopped from claiming his rights by filing a criminal complaint.

8. It is the submission of the learned counsel for the 2nd respondent that unless a detailed investigation is conducted in the criminal case by the 1st respondent, the culpability of the parties in this land grabbing racket will not come to light and, therefore, this Court should desist from interfering with the investigation, which alone would reveal the real culprits.

9. On the above contentions of the petitioner and the 2nd respondent, this Court heard the submissions of the learned Addl. Public Prosecutor appearing for the 1st respondent and also perused the materials available on record.

10. The various sale transactions ranging from the sale of the property to one Vijaya and the 2nd respondent herein by Komala Bai are matters of record. Equally, the sale of the land in favour of one Rajeswari by Vijaya and the subsequent purchase of the property by the petitioner from Rajeswari is also a matter of record. Equally it is a matter of record that the revenue records reveal the names of the purchasers of the property at various points of time. At the present point of time, the revenue records reveal that the land stands in the name of the petitioner.

11. It is the contention of the 2nd respondent that all the above transactions are sham and that it is a wholesome exercise by a group of persons to grab the lands of the 2nd respondent. Though such a contention is advanced, it is to be pointed out that at no point of time, the revenue record has shown the name of the 2nd respondent as a purchaser of the property. Though the complaint of the 2nd respondent reveals that a writ petition was

filed for a direction to the Tahsildar, Tambaram, to consider the application of the 2nd respondent for issuance of patta, on which this Court has passed a mandamus to the Tahsildar to consider and pass orders in accordance with law, yet it is the stand of the petitioner that no order has been passed by the Tahsildar on the application filed by the 2nd respondent. The application for patta has been filed with the Tahsildar as early as in May, 2006 and orders has been passed on the writ petition, however, it is the contention of the 2nd respondent that no orders has been passed on her application. This Court is at a loss to understand as to what prevented the 2nd respondent from filing a contempt petition before this Court, if the said authority had blatantly violated the orders passed by this Court by not deciding on the application of the 2nd respondent in accordance with law. However, not only the entire complaint and the other documents placed by the 2nd respondent, but also the counter affidavit filed by the 2nd respondent is wishfully silent on this aspect.

12. Further, it is to be pointed out that the 2nd respondent has stated that the property was purchased by her from Komala Bai in the year 1997, yet, vociferously, it is contended that even in the year 1995, by impersonation, the lands belonging to Komala Bai had been usurped by one Vijaya by way of a bogus sale deed. If the said contention of the 2nd respondent is to be accepted, nothing prevented the 2nd respondent from filing the encumbrance certificate for the said period, prior to her purchase to show that there was no mutation of lands in favour of any person from Komala Bai before the 2nd respondent. However, no such document is placed on record to show that such is the case. A perusal of the materials that forms part of the typed set reveals that nowhere there is any document, which reveals that at any point of time, the 2nd respondent had purchased the property or was the bona fide owner of the said property. However, all the documents, available on record, clearly point to Vijaya, Rajeswari, the petitioner and initially Komala Bai to have been the owners/purchasers of the property and that all the official records like patta, chitta, etc., stands in the name of one or the other party. The encumbrance certificate of the year 2012 also reveals the names of the persons, who had rightfully purchased the property at various points of time.

13. From a holistic analysis of all the documents above, it is unequivocally clear that the whole dispute is purely civil in nature, relating to the rightful ownership of the land by the purchaser, be it the petitioner or the 2nd respondent. The ownership and title to the land is the one and only issue which is brews in the whole case and once the same stands decided, all the other matters becomes incidental. Such being the case, the

title being the issue, this Court is of the considered opinion that the same is purely civil in nature and the present complaint, giving it a criminal flavour is not only wholly uncalled for, but the same is pertinently not maintainable. The 2nd respondent cannot resort to the criminal arm of law to have his civil dispute settled and allowing the investigation in the crime to continue would render it meaningless and otiose. Therefore, this Court is of the considered view that the investigation in Crime No.278/2012 on the file of the 1st respondent deserves to be quashed.

14. For the reasons aforesaid, Crime No.278/2012 on the file of the 1st respondent is quashed and this criminal original petition is allowed. The 2nd respondent is at liberty to work out her remedies in accordance with law before the competent civil forum, if so advised. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vv2/GLN

To

1. The Inspector of Police,
Central Crime Branch - Team XVII,
Vepery,
Chennai - 600 007.
2. The Additional Public Prosecutor,
High Court,
Madras.

RR(CO)
RMP(05/10/2020)

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