



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.07.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

Crl.O.P.[MD]No.8024 of 2020

and

Crl.M.P(MD) No.3808 of 2020

WEB COPY

1.A.Jeganathan

2.M.Chinnasamy

3.R.Narayanan

4.S.Sethuraman

...Petitioners/Affected Parties

Vs.

1.The Executive Magistrate-cum-Tahsildar,

Thiruppuvanam Taluk,

Sivagangai District.

...1st Respondent/Complainant

2.The Inspector of Police,

Palayanoor Police Station,

Sivagangai District.

...2nd Respondent/
Formal cum necessary party

3.Murugesan

4.Murugan

5.Rengathan @ periyakaruppan

...Respondents No.3 to 5/
Instigators

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the order passed by the first respondent in Na.Ka.No.A1/2307/2020 dated 20.07.2020 and quash the same as against the petitioners.

For Petitioners

: Mr.R.Udhayakumar

For R-1 and R-2

: Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking the relief to call for the records pertaining to the order passed by the first respondent in Na.Ka.No.A1/2307/2020 dated 20.07.2020 and quash the same as against the petitioners.

2.The case of the prosecution is that on 08.07.2008, the petitioners have jointly purchased the property comprising in Survey Nos.126 and 127/1 in Sangankulam Village, Vallerenthal group, Thiruppuvanam Taluk, Sivagangai District through a registered sale deed. In respect of the said property, a suit has been pending in



O.S.No.25 of 2020 on the file of the District Munsif cum Judicial Magistrate's Court, Thiruppuvanam. In this connection, immediately after filing of the suit on behalf of the petitioners an Advocate notice was sent to the first respondent. He would further submit that the first respondent after knowing the pendency of the suit, without asking any explanation from the petitioners, straight away passed an impugned order, which is against the principles of natural justice and therefore, the impugned order is clearly an abuse of process of law.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents 1 and 2.

4. The first and foremost submission made by the learned counsel for the petitioners is that the first respondent without hearing the petitioners, straight away passed an order without satisfying himself. Now on go through the records, it is true that the impugned order has been straight away issued by the first respondent without issuance of notice to the petitioners. That apart, the first respondent has not satisfied himself as to whether the act of nuisance has been made out in the case. At the outset, the proceedings issued by the first respondent is an abuse of process of Court and also it is a violation of natural justice and therefore, the same is liable to be quashed by this Court in exercising its power under Section 482 of Cr.P.C.

5. In view of the above observations, this Criminal Original Petition is allowed and the order passed by the first respondent in Na.Ka.No.A1/2307/2020 dated 20.07.2020 is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (ADII)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

cp

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Executive Magistrate-cum-Tahsildar,
Thiruppuvanam Taluk,
Sivagangai District.

2.The Inspector of Police,
Palayanoor Police Station,
Sivagangai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.[MD]No.8024 of 2020
31.07.2020

KB(20.08.2020) 3P 4C