

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.03.2021
CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
C.M.A.No.1013 of 2011

K.Vijayaragavan

.. Appellant

vs.

1. State
(Rep. by Inspector of Police,
Vigilance and Anti Corruption
Chennai City-III, 2nd Floor,
T.N.H.B. Building,
No.485, Anna Salai, Chennai -35.

2. N.Ragunathan

3. N.Rajeshwari

4. R.Sudha

5. R.Latha

6. R.Kavitha

7. R.Karthik

.. Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 11 of the Criminal Law (Amendment) Ordinance, 1944, pleaded to allow this appeal by set asiding the order passed by the Learned Principal Session Judge, Chengalpattu in CrI.M.P.No.6435 of 2009 dated 09.11.2010.

For Appellants : Mr.MU.Muthappan

For Respondent : Mr.Y.T.Aravind Gosh,

Additional Government Pleader (CS)
for R1.

R2-R7 - No appearance.

JUDGEMENT

The order dated 09.11.2010 passed in CrI.M.P.No.6435 of 2009 is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant has filed a petition in CrI.M.P.No.6435 of 2009 in CrI.M.P.No.772 of 2009 under Order 1 Rule 10 of the

code of civil procedure, to add him as a party of the proceedings in Crl.M.P.No.772 of 2009 forthwith in respect of the petition schedule mentioned properties.

3. Crl.M.P.No.772 of 2009 was filed by the Inspector of Police, Vigilance and Anti Corruption against the order of interim attachment of properties set out in the annexure to the affidavit under Section 4 of the Criminal Law (Amendment) Act 1944 r/w Section 5(6) of Prevention of Corruption Act,1998. The attachment was ordered and all those properties mentioned in the schedule to the petition were attached. The said attachment was made in respect of the properties mentioned in the schedule to the petition.

4. The learned Additional Government Pleader made a submission that after an attachment was made in respect of the schedule mentioned properties, in the petition filed by the Inspector of Police, further proceedings were initiated. The Government Servant, in the present case, amassed wealth to the huge extent and criminal prosecution was instituted under the Prevention of Corruption Act. Large number of properties were attached, which were purchased from and out of the ill-gotten money and therefore, the issues are to be decided only by way of a fullfledged trial.

5. When the criminal case is pending and the properties were attached, the said properties were sold by the accused persons in favour of the appellant herein and thus the appellant filed Crl.M.P.No.6435 of 2009 to add him as a party respondent in the proceedings in Crl.M.P.No.774 of 2009.

6. The Principal Sessions Court, Chengalpet considered the issues raised by the appellant and dismissed the petition. Thus, the present appeal is filed.

7. The findings of the trial Court reveals that Ex.P1 is the Xerox copy of the sale deed executed by Tmt. N.Rajeshwari in favour of Thiru.K.Vijayaraghavan. Ex.P2 is the another sale deed executed by Tmt.N.Rajeshwari in favour of Thiru.K.Vijayaraghavan. The said properties under Ex.P1 and P2 are also included in the disproportionate assets of the respondents 2 and 3 viz., Thiru.Mr.Ragunathan and Tmt.Rajeshwari and at the time of investigation, the properties mentioned in Document Nos. 1399/2008 and 1408/2008 are totally enjoyed by the respondents 2 and 3 and after collecting the evidences through the house search conducted on 03.01.2008 and the documents collected from the Sub Registrar office, it was found that the ownership is in the name of the respondents 2 and 3.

8. It is contended that the respondents 2 and 3 before the

trial Court were aware of the full facts about the involvement of the properties in the case initiated at Kancheepuram, in Crime No.25/AC/2007 under Section 13(2) r/w 13 (e) of the Prevention of Corruption Act, 1988. Thus, it was established that the sale was made after registering the criminal case. Further, Kancheepuram Unit of Vigilance, Anti Corruption had already attached the properties in this case in Crl.M.P.No.771 of 2009 and Crl.M.P.No.772 of 2009 dated 07.11.2009. Thus, the petition filed by the appellant was dismissed.

9. This Court is of the considered opinion that the parties were aware of the fact regarding the registration of the criminal case under the provisions of the Vigilance and Anti Corruption Act. That apart, those properties were attached by the Vigilance and Anti Corruption Department, Kancheepuram. When the properties were attached and the sale deed was executed by the accused persons, neither such sale can be recognised nor be validated by the Courts. The appellant was an independent purchaser and therefore, he cannot be added as a party in the criminal case when the attachment proceedings are instituted by the Inspector of Police in a criminal case.

10. This being the facts and circumstances of the case, this Court do not find any perversity or infirmity as such with reference to the orders passed by the trial Court and accordingly, the order dated 09.11.2010 passed in Crl.M.P.No.6435 of 2009 stands confirmed and C.M.A.No.1013 of 2011 is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Principal Session Judge, Chengalpattu

+1 cc to Mr.M.Muthappan, Advocate, SR.No.14344

+1 cc to The Special Government Pleader, SR.No.14495

C.M.A.No.1013 of 2011

GSM(CO)
NS(10/05/2021)