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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.10.2021

PRONOUNCED ON : 06.12.2021

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

W.P.No.15867 of 2021 and

W.M.P.No.16759 of 2021

Pratap K. Moturi

...Petitioner

Versus

1. The Commissioner of Police,
No.132, Commissioner Office Building,
EVK Sampath Road, Vepery,
Periamet, Chennai 600 007.
2. Deputy Inspector General of Registration,
Chennai Region,
100 Santhome High Road,
Pattinapakkam, Chennai 600 028.
3. The Sub Registrar,
Office of the Sub Registrar, Kundrathur,
NSK Avenue, Manickam Road,
Sambandham Nagar,
Kundrathur 600 069,
Kanchipuram District.
4. The Additional Commissioner of Police,
City Crime Branch,
Office of the Commissioner of Police,
Vepery, Chennai 600 007.
5. The Inspector of Police, Team XXIV,
City Crime Branch,
Office of the Commissioner of Police,
Vepery, Chennai 600 007.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other Writ, order or direction in the nature of Writ, directing the respondents 1, 4 & 5 to implement the proceedings initiated by the 3rd respondent dated 09.03.2021 at the earliest point of time.



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For Petitioner : Mr.J.Pothiraj
For Respondents : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

This Writ Petition has been filed to direct the respondents 1, 4 & 5 to implement the proceedings initiated by the 3rd respondent, dated 09.03.2021.

2.The brief facts of the case is that the petitioner is the son of Dr.Moturi Sathyanarayana, died on 06.03.1995 leaving legal heirs viz., the petitioner, Krishna Mohan @ M.K.Mohan, Ravi Moturi, Jyothaana Parachuri, Usha B.Rao, Kasturi Balaraman and Sujatha Premukar. Prior to the death, the said Dr.Moturi Sathyanarayana left a Will, dated 20.05.1983 and also left behind two properties. One is a three storeyed building at No.7, 1st Crescent Road, Adyar, Chennai and the other is a vacant land, measuring 4 acres, at No.92, Poonamallee High Road, Numbal Village, Poonamallee. The said Dr.Moturi Sathyanarayana was a Member of Parliament for a period of 16 years from 1952 to 1966. The Will, dated 20.05.1983 was deposited with the District Registrar Madras South. After the death of the petitioner's father, Testamentary Suit was filed by the petitioner before this Court in O.P.No.761 of 2004. Krishna Mohan @ M.K.Mohan, son of Dr.Moturi Sathyanarayana alone had challenged the grant of Letters of Administration and consequently, O.P.No.761 of 2004 had been converted into T.O.S.No.73 of 2013. The said Krishna Mohan @ M.K.Mohan passed away during the pendency of the suit and thereafter, the legal heirs of Krishna Mohan @ M.K.Mohan viz., Lalitha Mohan/wife and Anuradha Moturi/daughter were impleaded in the suit. Ex.P1 is the Will, dated 20.05.1983; Ex.P2 is the cover which contained the original Will which was deposited with the District Registrar, Madras South; Ex.P3 is the original death certificate of S.Moturi Sathyanarayana; Ex.P4 is the legal heir ship certificate of S.Moturi Sathyanarayana and other documents also marked on the side of the plaintiff/petitioner. On the side of the defence, totally 11 documents were marked as Exs.D1 to D11. Ex.D7 is the Will, dated 04.03.1995.

3.According to the petitioner's brother Krishna Mohan @ M.K.Mohan, the Will, dated 04.03.1995 is the only Will and disputed Ex.P1/the Will, dated 20.05.1983. This Court in T.O.S.No.73 of 2013, dated 30.01.2018 after examining the witnesses and analysing the documents, held that the Will, dated



20.05.1983 executed by Dr.Moturi Sathyanarayana is true and genuine and the Will, dated 04.03.1995 has not been proved and granted a decree in favour of the petitioner and others. As against the Judgment in T.O.S.No.73 of 2013, the legal heirs of Krishna Mohan @ M.K.Mohan, Lalitha Mohan/wife and Anuradha Moturi/daughter had filed O.S.A.No.19 of 2019. This Court, by judgment, dated 17.02.2020 dismissed the same and gave a finding that the Will, dated 04.03.1995 produced by Krishna Mohan @ M.K.Mohan is false and fabricated one. Following the judgment of this Court in O.S.A.No.19 of 2019, the Deputy Inspector General of Registration, by proceedings in Na.Ka.No.884/A1/2019, dated 17.02.2021 directed the Sub Registrar, Kundrathur to lodge a complaint against Krishna Mohan @ M.K.Mohan's wife and daughter as per Section 83 of the Registration Act. The Sub Registrar, Kundrathur, by letter No.59 of 2021, dated 09.03.2021 sent a complaint to the Commissioner of Police, Vepery Chennai stating that based on the forged Will, dated 04.03.1995, Krishna Mohan @ M.K.Mohan's wife and daughter created forged documents in Nos.416 of 2002, 994 of 2005 and 1479 of 2004 on 01.02.2002, 11.02.2005 and 08.01.2004 respectively and sent the copies of the documents, requested the Police to take action against the executor of the documents. Since no action taken on the side of the Police officials, the petitioner has filed the present petition.

4.The learned counsel for the petitioner submitted that the petitioner's father late Dr.Moturi Sathyanarayana executed a Will, dated 20.05.1983. As per the Will, the property situated at Puliyaibedu Village, Numbal Madura comprised in survey Nos.11/1 & 11/2, Poonamallee Taluk, Thiruvallur District, measuring 4 acres was allotted to his son Nikil Moutri, his brother's son Srinivas, his elder brother Krishna Mohan @ M.K.Mohan's daughter Anuradha Moturi. As per the Will, the petitioner along with his elder brother Ravindra Moturi took steps to divide the property. At that time, it was found that the elder brother of the petitioner Krishna Mohan @ M.K.Mohan has created a fabricated Will and sold one acre from the said survey number to the third party.

5.The petitioner filed Original Petition before this Court for probating the Will. This Court considering the rival submissions, converted the Original Petition into the Testamentary Original Suit. After elaborate argument, this Court, by judgment, dated 30.01.2018 held that the Will executed by the petitioner's father produced by the petitioner has been proved in accordance with law and decreed the suit as prayed for and issued Letters of Administration in favour of the



petitioner. During the pendency of the suit, the petitioner's brother Krishna Mohan @ M.K.Mohan passed away and his legal heirs viz., his wife and daughter were impleaded as defendants in the suit. Aggrieved against the said judgment, the legal heirs of Krishna Mohan @ M.K.Mohan namely Lalitha Mohan and Anuradha Moturi filed Original Side Appeal No.19 of 2019 before this Court. The Hon'ble Division Bench of this Court, by judgment, dated 17.02.2020 held that the petitioner's brother late Krishna Mohan @ M.K.Mohan along with others have set up a false and fabricated Will and confirmed the judgment passed in T.O.S.No.73 of 2013. Based on the judgment passed by this Court, the 2nd respondent, by proceedings in Na.Ka.No.884/A1/2019, dated 17.02.2021 directed the 3rd respondent to lodge a complaint under Section 83 of the Registration Act against the persons, who fabricated the Will and executed document based on the same. The 3rd respondent lodged a complaint to the 1st respondent on 09.03.2021 and thereafter, the status of the complaint is not known and no action taken.

6.The learned counsel for the petitioner further submitted that using the fabricated Will, four documents were created and registered pertaining to the property in document Nos.416 of 2002, 1479 of 2004 and 994 of 2005 on 01.02.2002, 08.01.2004 and 11.02.2005 respectively. Further, the 2nd respondent following the judgment passed in O.S.A.No.19 of 2019 directed the 3rd respondent not to register any document based on the fabricated Will and pursuant documents. The petitioner lodged a complaint on 12.07.2021 which was also not acted upon. The 5th respondent Police for the reasons best known, despite the complaints received from Government Servant from the Government Department and also from the petitioner, failed to take action against the persons who created forged and fabricated documents.

7.In support of his submissions, the learned counsel for the petitioner produced the copy of the judgment passed in T.O.S.No.73 of 2013; judgment passed in O.S.A.No.19 of 2019; the proceedings of the 2nd respondent in Na.Ka.No.884/A1/2019, dated 17.02.2021, the proceedings of the Sub Registrar, Kundrathur, dated 09.03.2021. The petitioner filed Additional Typed Set to show the documents Nos.1168/2009, 3488/2009, 6140/2011, 9880/2015, 18674/2015 created by fabricating Will. He further submitted that the Hon'ble Division Bench of this Court in O.S.A.No.19 of 2019 had given a clear finding that the Will produced by the petitioner's elder brother Krishna Mohan @ M.K.Mohan is a fabricated and forged document. Using the forged Will late Krishna Mohan @ M.K.Mohan, created encumbrance to the



property and sold the property in collusion with others. The Will produced by the late Krishna Mohan @ M.K.Mohan is examined by this Court and declared as a forged document. Hence, prayed for appropriate direction of this Court to register a case and take appropriate action against the persons involved in the crime.

8.The learned Additional Public Prosecutor appearing on behalf of the respondents filed counter and submitted that the complaint given by the 3rd respondent, dated 09.03.2021 received by the Inspector of Police, Central Crime Branch, Land Grabbing-II, Team-XXIV, Vepery, Chennai on 01.04.2021. On receipt of the complaint, enquiry conducted. During enquiry, the petitioner was directed to produce documents. The petitioner's complaint is dated 15.07.2021. On receipt of the petitioner's complaint, the complaint of the 3rd respondent was closed, since both the 3rd respondent's complaint and the petitioner's complaint are identical. During the course of the investigation, materials and documents collected and it came to light that already a case in Crime No.696 of 2005, for offence under Sections 465, 467, 468, 471 and 420 IPC was registered on the complaint lodged by the petitioner on 19.04.2005 against the petitioner's elder brother Krishna Mohan @ M.K.Mohan, his sister-in-law Lalitha Mohan. After investigation, charge sheet filed in C.C.No.1015 of 2015 listing LW1 to LW8 and documents, which is pending for trial.

9.It is further submitted that the accused in that case obtained anticipatory bail on 07.09.2010 before this Court in CrI.O.P.No.19933 of 2010. Subsequently, NBW was issued and a recall petition was filed before this Court in CrI.O.P.No.26569 of 2010, which was ordered on 15.11.2020. Now, the case is posted for hearing on 24.09.2021. The investigation in Crime No.696 of 2005 was investigated and prosecuted by team XVIII-A of LG-1 of Central Crime Branch, Chennai and hence, the complaint of the petitioner is to be transferred to the said team. The petitioner not approached this Court with clean hands, suppressed the registration of the earlier case in Crime No.696 of 2005. He further submitted that the facts of the present complaint and the facts of the case in Crime No.696 of 2005 are identical and hence, no separate case need to be registered on the complaint of the petitioner dated 15.07.2021 and of the 3rd respondent, dated 09.03.2021. Hence, the above petition is liable to be dismissed.

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



11.The reason given by the 5th respondent for closing the complaint of the 3rd respondent, dated 09.03.2021 is that a case in Crime No.696 of 2005, for offence under Section 420 IPC has been initiated on the complaint of the petitioner, dated 19.04.2005 and on completion of the investigation, charge sheet filed in C.C.No.1015 of 2017 before the Additional Chief Metropolitan Magistrate, Chennai on 02.01.2003 and later transferred to the Court of Special Court for CBCID, Chennai and taken on file as C.C.No.46 of 2013 and the same is pending, is not proper and also not taking any action on the complaint of the petitioner, dated 15.07.2021, which is admittedly received by the 5th respondent, is also not proper.

12.The facts of case in Crime No.696 of 2005 is that the petitioner's brother Krishna Mohan @ M.K.Mohan/A1 had created a forged Will on 04.03.1995. Using the same, he settled 4 acres in survey No.11/1A and 11/1B in Noombal Madura Puliumbedu Village, Poonamallee High Road, Thiruvallur in favour of Lalitha Moturi/A2 in document No.416 of 2002, dated 01.02.2002. This case was investigated and final report was filed on 02.01.2007 before the learned Additional Chief Metropolitan Magistrate, Chennai. In the final report, totally 8 witnesses have been listed as LW1 to LW8. LW1 is the petitioner; LW2 is the petitioner's brother Ravindra Moturi; LW3 is the wife of the petitioner; LW4 is one Yogendra Prasad; LW5 is the Vijayakumar; LW6 is the Sub Registrar, Kundrathur; LW7 is the Sub Inspector of Police, Central Crime Branch, Chennai, who registered the case and LW8 is the Investigating Officer. These are the witnesses, who have spoken about the entire forged transaction.

13.On perusal of the final report in Crime No.696 of 2005, it is seen that the facts of that case is no way identical and similar to the complaint lodged by the 3rd respondent, dated 09.03.2021 and petitioner's complaint dated 15.07.2021. Closing the complaint of the 3rd respondent, dated 09.03.2021 is not proper. Admittedly, in this case, the first complaint is of the 3rd respondent and thereafter, only the petitioner lodged a complaint on 15.07.2021. The first complaint of the 3rd respondent ought to have been dealt with on merits.

14.The 3rd respondent, by his complaint, dated 09.03.2021 categorically stated that Krishna Mohan @ M.K.Mohan and Lalitha Mohan have created forged document in Nos.416 of 2002, 994 of 2005 and 1479 of 2004 on 01.02.2002, 11.02.2005 and 08.01.2004 respectively. The Hon'ble Division Bench of this Court in its



Judgment in O.S.A.No.19 of 2019 in paragraph No.8 had given a clear finding that Lalitha Mohan, Krishna Mohan @ M.K.Mohan had created false and fabricated Will, dated 04.03.1995 (Ex.D7). The Will, dated 04.03.1995 was created just two days before the death of Dr.Moturi Sathyanarayana, who was bedridden and not in a position to execute such Will. The Will, dated 20.05.1983 is the original Will which was deposited with the District Registrar, Madras South. This Court in Testamentary Suit in T.O.S.No.73 of 2013, dated 30.01.2018 had given clear finding with regard to the genesis of the Will, dated 20.05.1983 and found that the Will, dated 04.03.1995 produced by Krishna Mohan @ M.K.Mohan is forged. On the strength of the Will, dated 04.03.1995, subsequent documents have been created and thereby, usurped the property and encumbrance has been created. Thereafter, subsequent liability created and settled through Arbitration and later, the sale deed recorded as per Arbitration Award by the Principal District Judge, Thiruvallur and thereby, projected as through Court has approved genuine sale. These aspects have to be independently investigated. The 5th respondent without considering the same, citing the complaint of the petitioner, dated 15.07.2021, closed the complaint of the 3rd respondent, dated 09.03.2021, which is not proper. Further, citing the final report filed in Crime No.696 of 2005, the petitioner's complaint, dated 15.07.2021 was not registered, is also not proper and acceptable.

15.It is made clear that the Arbitration Award and subsequent sale deed executed by the Principal District Judge, Thiruvallur will not be an obstacle to investigate the forgery and creation of subsequent documents.

16.In view of the above factual matrix, this Court finds prima facie material and cognizable offence made out on the complaint lodged by the petitioner as well as the 3rd respondent. Hence, this Writ Petition is disposed of with the following directions.

17.The 4th respondent is directed to entrust the complaint of the 3rd respondent and the petitioner to a responsible Police Officer attached to the City Crime Branch. The complaint of the petitioner, dated 15.07.2021 and the 3rd respondent, dated 09.03.2021 are to be investigated, FIR to be registered on the 3rd respondent's complaint, dated 09.03.2021 and final report to be filed preferably within a period of six months from the date of receipt of a copy of this order. The petitioner's complaint, dated 15.07.2021 is to be considered in correlation to the statement of the witnesses. The 4th



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respondent is to monitor the investigation. Consequently, the connected Miscellaneous Petition is closed. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

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To

- 1.The Commissioner of Police,
No.132, Commissioner Office Building,
EVK Sampath Road, Vepery,
Periamet, Chennai 600 007.
- 2.The Deputy Inspector General of Registration,
Chennai Region,
100 Santhome High Road,
Pattinapakkam, Chennai 600 028.
- 3.The Sub Registrar,
Kundrathur,
NSK Avenue, Manickam Road,
Sambandham Nagar,
Kundrathur 600 069,
Kanchipuram District.
- 4.The Additional Commissioner of Police,
City Crime Branch,
Vepery, Chennai 600 007.
- 5.The Inspector of Police, Team XXIV,
City Crime Branch,
Office of the Commissioner of Police,
Vepery, Chennai 600 007.
- 6.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr. Pothiraj, Advocate sr 63861.

W.P.No.15867 of 2021

JPL(CO)
SP(13/12/2021)