

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.17351 of 2020
and
Crl.M.P.No.6700 of 2020

K.V.Devakumar,
S/o.B.Venugopal.

... Petitioner

Vs.

1.The Deputy Commissioner of Police,
Central Crime Branch-II,
O/o.The Commissioner of Police,
Vepery, Chennai-600 007.

2.Mr.Srinivasan,
The Inspector of Police,
Anti Land Grabbing Cell,
Central Crime Branch,
Team XVII, Egmore,
Chennai-8.

3.Ms.Manimegalai,
The Inspector of Police,
Anti Land Grabbing Cell,
Central Crime Branch,
Team XV, Egmore,
Chennai-8.

... Respondents

Prayer: This Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records pertaining to the impugned closure report dated 09.09.2020 issued by the 2nd respondent and quash the same and direct the 2nd respondent to register the petitioner's complaint CCTNS dated 09.07.2020, investigate the same and file final report.

For Petitioner
For Respondents

: Mr.R.Narendran
: Mr.C.Raghavan,
Government Advocate

ORDER

On consent given by either side, the main petition itself has been taken up for final hearing.

2.This Criminal Original Petition has been filed challenging the impugned closure report issued by the second respondent Police dated 09.09.2020.

3.The brief facts of the case is that the subject property in Survey No.64 at Palavakkam Village, measuring an extent of 79 cents was originally owned by one P.S.Srinivasulu. He executed a power of attorney in favour of one Lakshmi Narayanan, to deal with the property in Document No.2145 of 1982. A lay out was developed and 25 housing plots came to be sold to 22 persons covering the entire 79 cents. This was done by one P.S.Mani by virtue of a settlement deed executed in his favour on 31.10.1983 by his father, who had purchased the property from the power of attorney agent by a registered sale deed dated 25.04.1982.

4.The petitioner claims to have purchased two plots by virtue of two documents registered as Document No.7042 of 2005 and 7030 of 2005.

5.It is alleged that the very same property was again dealt with by executing a power of attorney in favour of one Ravi in the year 2009 and pursuant to the same several sale agreements and sale deeds came to be registered.

6.A complaint came to be given by the petitioner to the District Registrar, South Chennai and the District Registrar by proceedings dated 12.09.2017 came to a conclusion that all the subsequent documents are fraudulent documents and directed the concerned Sub-Registrar to give a complaint under Section 82 and 83 of the Registration Act, to the concerned Police. The Sub-Registrar by a complaint dated 19.10.2017, requested the third respondent to immediately take action against the accused persons for an attempt being made to grab the lands, which had already been dealt with and sold to 22 persons.

7.The grievance of the petitioner is that the respondent Police even without registering an F.I.R. and conducting an investigation, has closed the complaint in a hasty manner and the closure report has therefore been put to challenge before this Court.

8.The third respondent has filed a status report before this Court.

9.Heard Mr.R.Narendren, learned counsel appearing on behalf of the petitioner and Mr.C.Raghavan, learned Government Advocate, appearing on behalf of the respondents.

10.The concerned registration authority on assessment of the materials placed at the time of enquiry, has come to a prima facie conclusion that the subsequent documents that had been created are all bogus documents since, the property has already been dealt with and it has been plotted and sold to nearly 22 persons. A complaint in this regard has also been given by the Sub-Registrar, Neelankarai, under Section 82 and 83 of the Registration Act. The third respondent, on receipt of this complaint ought to have registered an F.I.R and conducted an investigation. The proceedings of the Deputy Registrar itself is a prima facie material which makes out a cognizable offence. Therefore, it is not left open to the third respondent to keep the proceedings at the stage of complaint and conduct a detailed enquiry and close the complaint. This procedure adopted by the third respondent is illegal. The Hon'ble Supreme Court in the judgment reported in 2013 (6) CTC 353 in the case of Lalitha Kumari Vs. Government of Uttar Pradesh, has categorically held that wherever a cognizable offence is made out, it is duty of the Police to register an F.I.R., under Section 154 Cr.P.C. It is also seen that the accused persons had registered one more document on 04.10.2019 and hence the petitioner has also given a complaint on 09.07.2020. Apart from the complaint given by the Sub-Registrar, this complaint was also pending before the third respondent. Therefore, there is a clear inaction on the part of the third respondent in not registering the F.I.R and proceeding further with the investigation. Since the same was not done, repeated documents are being registered before the concerned Sub-Registrar and more third party rights are created. This can be effectively stopped only if an F.I.R. is registered and the investigation is effectively conducted.

11.In view of the above, the procedure adopted by the third respondent is declared to be illegal and the impugned closure report dated 09.09.2020 is hereby set aside. The third respondent is directed to register an F.I.R based on the complaint given by the Sub-Registrar, Neelankarai. The third respondent shall thereafter conduct a thorough investigation and proceed against the accused persons and file a final report as expeditiously as possible.

12.This Criminal Original Petition is allowed with the above directions. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To:

1.The Deputy Commissioner of Police,
Central Crime Branch-II,
O/o.The Commissioner of Police,
Vepery, Chennai-600 007.

2. The Inspector of Police,
Anti Land Grabbing Cell,
Central Crime Branch,
Team XVII, Egmore,
Chennai-8.

3.The Inspector of Police,
Anti Land Grabbing Cell,
Central Crime Branch,
Team XV, Egmore,
Chennai-8.

4. The Public Prosecutor,
High Court, Madras.

5.The Sub Registrar
Neelankarai

+1 cc to Mr.R.Narendran Advocate sr5018

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