

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.31638 of 2019

and

Crl.MP.Nos.17320 and 17321 of 2019

S.Varadarajan

...Petitioner

.Vs.

1.The Inspector of Police,
Uthangarai Police Station,
Uthangarai Taluk,
Krishnagiri District.

2.The Sub Registrar,
Uthangarai Sub Registrar Office,
Uthangarai Taluk,
Krishnagiri District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records vide C.C.No.51 of 2019 pending on the file of the Judicial Magistrate Court, Uthangarai and to quash the same.

For Petitioner : Mr.P.Muthusamy

For Respondents : Mr.C.Raghavan
Government Advocate
for R 1

Mr.T.M.Pappiah
Special Government Pleader
for R 2

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O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.51 of 2019, pending on the file of the Judicial Magistrate Court, Uthangarai

2. When the matter came up for hearing on 04.02.2021, the following order was passed by this Court:

"This petition has been filed to quash the proceedings in CC.No.51 of 2019 pending on the file of the learned Judicial Magistrate, Uthangarai. The second respondent gave a complaint to the first respondent Police on 26.03.2018 to the effect that the petitioner had executed a settlement deed in favour of his son, dated 17.08.2015 and the same was also presented for registration and registered as document No.2753 of 2015. It is further alleged that in the said settlement deed, the petitioner had intentionally added certain portions of the property which has already vested with the Highways Department after being acquired and the compensation was also paid to the petitioner. Therefore, the second respondent has stated in the complaint that the petitioner has fabricated a settlement deed with an intention to cheat the Highways Department and therefore, action must be taken against him. Based on the complaint, an FIR came to be registered in Crime No.133 of 2018 before the respondent Police. The respondent Police conducted the investigation and filed a final report before the learned Judicial Magistrate, Uthangarai and the same has been taken cognizance by the Court below for offences under Section 420, 465, 468, 471 and 477(A) IPC.

2. Mr.T.Mohan, the learned counsel appearing on behalf of the petitioner submitted that in the present case, the actual dispute is with regard to two of the scheduled property in S.Nos.28/1C & 28/1D. The learned counsel fairly submitted that the properties in S.No.28/1C originally measured a total extent of 99.87 sq.mtrs. and out of the same, the Highways Department acquired 20 sq.mtrs and what remained within the ownership of the petitioner was 79.87 sq.mtrs. Similarly, the total extent of the property in S.No.28/1D measured 809 sq.mtrs. and out of the same, 90 sq.mtrs. was acquired by the Highways Department and what fell within the ownership of the petitioner was the remaining 719 sq.mtrs. The learned counsel further submitted that the petitioner had received the compensation for the portions of the land acquired by the Highways Department.

3. The learned counsel further contended that while describing the properties in the

settlement deed that was executed by the petitioner in favour of his son, the document writer by oversight had mentioned the total extent of the properties in S.Nos.28/1C & 28/1D instead of mentioning the remaining portion, which fell within the ownership of the petitioner after acquisition. The learned counsel submitted that the petitioner never intended to settle the property that was already acquired by the Highways Department.

4. The learned counsel also brought to the notice of this Court the fact that a rectification deed was presented for registration before the Sub Registrar by carrying out the necessary corrections in the extent of S.Nos.28/1C & 28/1D. This document was not accepted by the Sub Registrar and it was rejected by an order dated 01.12.2017. An appeal was filed before the District Registrar on 11.12.2017 and the same was also rejected by an order dated 24.05.2019. Thereafter, the petitioner has filed a further appeal before the Inspector General of Registration and the same is pending.

5. The learned counsel by pointing out to these facts, submitted that the petitioner had bonafide intentions to rectify the discrepancies found in the extent of the property in the settlement deed and the authorities are rejecting it on some technical ground and as a result of the same, the petitioner was not able to register the rectification deed.

6. In the considered view of this Court, a solution has to be found out to ensure that the petitioner does not make any claim over the property that has already vested with the Highways Department. It is clear from the submissions of the learned counsel for the petitioner that the petitioner does not intend to make any claim over the property which has already been acquired by the Highways Department. The only way in which this can be sorted out and regularized is by executing a rectification deed and correcting the extent of the property in S.Nos.28/1C & 28/1D. While executing this rectification deed, the petitioner can also explain about the acquisition that was made by the Highways Department and the compensation received by him and the balance property that is owned by him which will be described in the schedule. By explaining the same in the body of the rectification

deed, the entire problem can be solved by registering the rectification deed.

7. In order to bring about a solution to this case, this Court is inclined to issue the following interim directions:-

a. The petitioner is directed to execute a rectification deed. The body of rectification deed shall clearly explain about the total extent which was owned by the petitioner in S.Nos.28/1C and 28/1D and the subsequent acquisition and receipt of compensation and the balance extent that is owned by the petitioner. The rectification deed shall also state that the earlier description of the property in the original settlement deed was done by oversight and it requires rectification insofar as the description of the properties in S.Nos.28/1C and 28/1D are concerned.

b. The schedule of property in the rectification deed shall perfectly describe the extent in S.Nos.28/1C and 28/1D.

c. This rectification deed shall be submitted for registration before the Sub Registrar, Uthangarai and this document shall be entertained by the concerned officer and it shall be registered subject to the payment of necessary stamp duty and registration charges. The document after registration shall be released to the petitioner.

d. This process shall be completed within a period of two weeks from the date of receipt of this order.

e. The petitioner shall produce the registered rectification deed and the relevant entries in the encumbrance certificate before this Court during the next date of hearing.

8. Post this case for passing final orders on 23.02.2021 at 02.15 P.M".

3. When the matter was taken up for hearing today, Mr. Pappiah, learned Special Government Pleader appearing on behalf of the 2nd respondent submitted that the above order has been complied with by the 2nd respondent and the rectification deed dt.01.03.2021, has been registered in Document No.1441 of

2021. A copy of the registered document number was also submitted before this Court.

4.The learned counsel for the petitioner filed the affidavit of the petitioner stating that the order has been complied with by the petitioner and the rectification deed has also been executed.

5.The learned Government Advocate appearing on behalf of the 1st respondent submitted that in view of the rectification deed executed by the petitioner, the discrepancy in describing the property has now been set right and therefore, the respondent police will proceed in accordance with any orders passed by this Court in this petition.

6.Taking into consideration the facts and circumstances of the case and also taking into account the execution of the rectification deed by the petitioner on 01.03.2021, the entire matter now stands resolved and no useful purpose will be served in proceeding further with the criminal case against the petitioner.

7. In the result, the proceedings in C.C.No.51 of 2019, pending on the file of the Judicial Magistrate Court, Uthangarai, is hereby quashed and this criminal original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

To

1. The Judicial Magistrate Court,
Uthangarai.
2. The Inspector of Police,
Uthangarai Police Station,
Uthangarai Taluk,
Krishnagiri District.

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3 .The Sub Registrar,
Uthangarai Sub Registrar Office,
Uthangarai Taluk,
Krishnagiri District.

4. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.P.Muthusamy, Advocate Sr.No. 14106

+1 cc to The Government Pleader Sr.No. 14571

CRL.O.P.No.31638 of 2019

GSM(CO)
RMP(31/03/2021)



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