



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2021

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGO VAN**

Crl.O.P.(MD)No.5162 of 2021

R.Rajesh Kanna

... Petitioner

Vs.

1. The Superintendent of Police,
Theni District, Theni.
2. The Deputy Superintendent of Police,
Theni Sub-Division,
Theni District, Theni.
3. Inspector of Police,
District Crime Branch Police Station,
Theni District, Theni.
4. Govindaraj
5. Shenbagavalli
6. G.Ramya

... Respondents

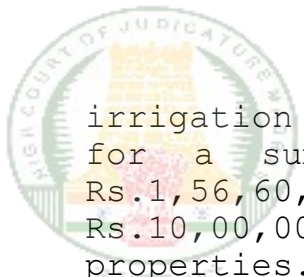
Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 1st and 2nd respondents to transfer the petitioner's complaint dated 15.02.2021 from the 2nd respondent to 3rd respondent for conducting enquiry.

For Petitioner : Mr.A.Jeyaram
For Respondents 1 to 3 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed seeking a direction to direct the 1st and 2nd respondents to transfer the petitioner's complaint dated 15.02.2021 from the 2nd respondent to 3rd respondent for conducting enquiry.

2. The case of the petitioner is that the 4th to 6th respondents approached the petitioner and offered to sell their undivided half share of properties which is situated at Theni District, Periyakulam Registration District, Theni Sub-Registration, Allinagaram Villge, Thenikal Pudevayal, wet land in Ayan survey No.419/4 admeasuring 32 cents and Survey No.420 admeasuring 37 cents totally 69 cents and Survey No.420 admeasuring 37 cents totally 69 cents and in Ayan Survey No.475/1 admeasuring 18 cents North side alone from total cents 36 and grand total of 87 cents of 87 and its



irrigation rights and the petitioner also accepted to buy the same for a sum of Rs.3,60,000/- per cent and total amounts of Rs.1,56,60,000/- for the 43 1/2 5,00,000/- and remaining amounts of Rs.10,00,000/- through cheque. cents of the 4th to 6th respondents properties. Accordingly, both the petitioner and 4th to 6th respondents entered into an unregistered agreement for sale Contract on 31.07.2019 and the petitioner paid a sum of Rs.15,00,000/- (Fifteen lakhs only) as advance by way of hot cash of Rs.5,00,000/- and remaining amounts of Rs.10,00,000/- through cheque. The 4th to 6th respondents promised to fulfil the sale after due partitioning of the properties, since the properties are jointly possessed and enjoyed by the 4th to 6th respondents with one Seethalakshmi and sons of one Soundarapandian nadar and the 1/2 share of the 4th to 6th respondents was not partitioned by metes and bounds. It is possible and feasible to enter the sale deed between the petitioner and respondents No.4 and 5 only after the partition of the property by metes and bounds. Therefore, the 4th and 5th respondent has filed a suit for partition before the Additional District Court, Theni in O.S.No.64 of 2018 and pending suit the 4th to 6th respondent received a sum of Rs.5,00,000/- from the petitioner in addition to the earlier advance by endorsing on the agreement of sale deed by way of cash of Rs.2,00,000/- and 3,00,000/- through cheque. Totally Rs.20,00,000/- was given to them. Then the learned Additional District Court has passed the preliminary decree dated 13.01.2020 in favour of the 4th and 5th respondents, however, they did not file a petition for passing the final decree after receiving the preliminary decree. By this time, the 4th to 6th respondents intended to sell their undivided portion of 43 1/2 cents to third person when the agreement for sale with the petitioner was in existence. Anticipating the same, the petitioner filed a suit for specific performance in O.S.No.19 of 2021 before the Additional District Judge, Theni. After knowing the pending suit, the 4th to 6th respondent sold out the property to one Imrankan residing at Door No.15, Vijayaraghava salaik, T. Nagar, Chennai with evil intention to defraud and cheat the petitioner. Then the petitioner has given a complaint in person to the 1st respondent on 15.02.2021 and same was forwarded to the 2nd respondent to conduct enquiry, but no receipt was given to the petitioner. Therefore he sent the same complaint to the 1st and 3rd respondent on 16.02.2021 for taking action on his complaint. Thereafter the 3rd respondent advised the petitioner to approach the 2nd respondent. Accordingly the petitioner approached the 2nd respondent for enquiry, but he did not take action by using delay tactics. Therefore, the petitioner went to the 3rd respondent to conduct enquiry and take action against the 4th to 6th respondents. But 3rd respondent refused to do the same and advised that he can conduct enquiry only after the complaint transfer from 2nd respondent. Therefore, this petition is filed by the petitioner.

3. According to the learned counsel for the petitioner,
<https://hcservices.mca.gov.in/hcservices/> second complaint, third respondent directed the



petitioner to appear before the present enquiry officer.

4. According to the learned Government Advocate (Crl.Side) when the complaint has already been given in person for enquiry, there is no question of enquiry by some other Officer.

5. Recording the submission made by the learned Government Advocate (Crl.Side), this Criminal Original Petition stands disposed of with a direction to the petitioner to cooperate with the enquiry or investigation.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

kmm

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 Superintendent of Police,
Theni District, Theni.
2. The Deputy Superintendent of Police,
Theni Sub-Division,
Theni District, Theni.
3. Inspector of Police,
District Crime Branch Police Station,
Theni District, Theni.
4. Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A.JEYA RAM, Advocate (SR-15721[F] dated 09/04/2021)

Crl.O.P. (MD)No.5162 of 2021

09.04.2021

CN (02.07.2021) 3P 6C