

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.02.2022
PRONOUNCED ON : 28.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.11751 of 2021 and
W.M.P.No.12513 of 2021

D.Kalavani

... Petitioner

Versus

1.State of Tamil Nadu,
Rep by Commissioner of Police,
Chief Police Control Office, Vepery,
Chennai - 600 007.

2.The Inspector of Police,
Central Crime Branch - 2, Team-25,
Special Land Grabbing Prevention Division,
Vepery, Chennai - 600 007.

3.P.Suresh

4.The Sub-Registrar,
Tambaram.

... Respondents

[R4 Suo-Motu impleaded vide order
dated 23.06.2021 in W.P.No.11751 of
2021.]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other Writ in the form of direction, directing the 2nd respondent to transfer the investigation pertaining to the petitioners complaint dated 22.02.2021 for land grabbing for the lands comprised in (i)Survey No.230/1B as per Document 70 Cents, as per Patta 75 Cents, (ii)Survey No.125/1A as per Document 29 Cents and (iii)Survey No.125/1A as per Document 29 Cents situated at Old Perungalathur Village in the land grabbing complaint reference on the file of the 2nd respondent vide (i) E.1088492/2021, (ii)RC.No.Cr.I(3) 162/22456/2021, (iii)

C.No.12/DC/CCB/GOVT/2021, (iv)C.No.07/AC LG II/CCB/GOVT/2021, (v)C.No.20/CCB Admin/GOVT/2021 for investigation to some other Investigation Team of the first respondent for investigation and for registering FIR and allow the procedure laid down in Criminal Procedure Code.

For Petitioner : Mr.J.R.K.Bhavanantham

For R1 & R2 : Mr.E.Raj Thilak,
Additional Public Prosecutor

For R3 :Mr.D.Selvam for Mr.M.Baskar

ORDER

This Writ Petition has been filed to direct the 2nd respondent to transfer the investigation pertaining to the petitioner's complaint, dated 22.02.2021 for land grabbing for the lands comprised in (i)Survey No.230/1B as per Document 70 Cents, as per Patta 75 Cents, (ii)Survey No.125/1A as per Document 29 Cents and (iii)Survey No.125/1A as per Document 29 Cents situated at Old Perungalathur Village in the land grabbing complaint reference on the file of the 2nd respondent vide (i) E.1088492/2021, (ii)RC.No.Cr.I(3) 162/22456/2021, (iii) C.No.12/DC/CCB/GOVT/2021, (iv)C.No.07/AC LG II/CCB/GOVT/2021, (v)C.No.20/CCB Admin/GOVT/2021 for investigation to some other Investigating Team of the 1st respondent for investigation and for registering FIR and allow the procedure laid down in Criminal Procedure Code.

2.The order of this Court, dated 23.06.2021 is extracted as follows:-

"The contention of the petitioner is that the petitioner's grand father viz., Sambandam Chettiar was holding a land in S.Nos.230/1B, 125/1A, 125/1C, 99/1C, 117/1B1A1A and 117/1B1C1 in Patta No.320. This property was purchased by the petitioner's grand father along with his mother i.e. the petitioner's great grand mother viz., Paripooranammal at Old Perungalathur Village. For which the petitioner had given an application on 16.03.2020, to change the patta in her name. This name changing application has been kept pending, in the mean while, it has come to know that the patta has been issued in the name of Suresh S/o. Paramasivam vide Patta No.11941 dated 18.10.2020. The above said Suresh is totally a stranger and in connivance with the Revenue Officials he has created the forged documents. The petitioner has been running from pillar to post and lodged a complaint and the

authorities had given one reason after another and they have not conducting the investigation in a proper manner. For the above said purpose only the Special Land Grabbing Cell has been created.

2.The petitioner has submitted the patta in favour of her grand father vide Patta No.320. 10(i) patta as well as computer patta as well as the Chitta, Adangal issued by the Village Administrative Officer, Perungalathur Tambaram Circle is also produced along with the kist receipt. The kist have been paid upto the year 2018. The forged patta has been issued on the strength of Document No.3994 of 1975 dated 24.10.1975. The said copy of the documents is purported to have been obtained by online application from the Sub Registrar Office, Tambaram with digital coding engrossment.

3.It is seen from the documents that a registered Mortgage Deed in respect of properties at Vembakkam between two different parties Dhanapal and Maniammal. On further investigation, it is revealed that the third respondent suspected to be connived with the Revenue Officials to fabricate a bogus sale deed. It appears that the front page of online application was taken copy along with digital code printing in Document No.3994 of 1975 and the following pages substituted with contents of sale deed typed on copy sheet containing sale deed contents and description of above said properties with the forged signature of Sambandam Chettiar in favour of Meena and that digital code printing found transferred on the copy of the fabricated copy sheet. The petitioner's grand father never sold the said property to anybody much less to Meena. For which the petitioner sought patta. The report of the Inspector of Police, Central Crime Branch, No.2, Team-25, Special Anti Land Grabbing, Division No.2, Vepery, Chennai - 600 007, dated 13.04.2021 had been produced. From the report, it is seen that during enquiry it was found that the patt No.11941 dated 18.10.2020 is forged and specific investigation pointing to this fact has not been carried out. On the other hand, the report states that the petitioner had applied for name changing patta before the District Collector, Tambaram and also to the Tahsildar, Tambaram and hence investigation is closed, which is not proper and the specific case of the petitioner is that the forgery aspect has not gone into.

4.The learned Government Advocate (Cr1. Side) had produced the report dated 13.04.2021 of the second respondent. This Court had gone into the typed set of

papers produced by the petitioner counsel as well as the report produced by the Government Advocate (Crl. Side).

5.From the report it is seen that the Investigation Officer had not gone into the main crux of the issue to find out the forgery committed. Despite the property has been in possession of the property, which is in her possession from the days of her grand father. The said Suresh claiming right over the property and keeping the patta is clouded with mystery.

6.Hence, this Court feels that the Tahsildar, Tambaram is directed to produce the relevant file along with the entire documents pertaining to issuance of patta No.11941 dated 18.10.2020. In the mean time, the Sub Registrar of Tambaram is impleaded as one of the respondent in this matter for better appreciation. The Sub Registrar, Tambaram is directed to produce the entire file pertaining to Document No3994 of 1975 along with the finger print records. The respondent police is directed to co-ordinate with the Tahsildar, Tambaram and also with the Sub Registrar, Tambaram to produce the documents before this Court. The Assistant Commissioner, Land Grabbing Cell is directed to appear personally to monitor the case and report the same.

7.Post the matter on 07.07.2021."

3.The order of this Court, dated 07.07.2021 is extracted as follows:-

"Mr.R.Suresh, the learned counsel appearing for the 3rd respondent submits that the entire facts have not been brought in the petition filed before this Court and he seeks time to file his counter and the documents in support in his counter.

2.The 4th respondent, Sub Registrar, Tambaram suo motu impleaded by this Court and he seeks time to file counter.

3.The learned Public Prosecutor also seeks short accommodation to file his report. List the matter on 14.07.2021."

4.The order of this Court, dated 27.07.2021 is extracted as follows:-

"Mr.Lakshminarayanan, the learned counsel has been instructed by Mr.Saravanan appearing for the third respondent.

2.The learned counsel for the petitioner is directed to serve a copy of the petition, typed set of papers and any other materials relied upon to Mr.Saravanan the learned counsel for the third respondent.

3.The learned Government Advocate (Crl.Side) has submitted that Tambaram Thasildar made a request to the Police to seek small accommodation, post this matter on 11.08.2021."

5.The order of this Court, dated 06.09.2021, is extracted as follows:-

"In pursuant to the order passed by this Court on 23.06.2021 and on 08.07.2021, the Sub Registrar, Tambaram had been served on notice and informed about the pendency of the above case.

2.Today, the learned counsel appearing for 3 rd respondent seeks small accommodation.

3.The learned counsel appearing for petitioner submitted that the Sub Registrar, Tambaram, after being impleaded as a party in this case, now tampering all records is being in progress.

4.This court finds no representation for Sub Registrar, Tambaram. In view of the same, the 2 nd respondent is directed to produce Sub Registrar, Tambaram before this court on 21.09.2021.

5.Post the matter on 21.09.2021."

6.The order of this Court, dated 28.10.2021, is extracted as follows:-

"The learned counsel for the petitioner today explained that forgery committed by referring to his typed set Index-IV wherein in Page No.3 the certified copy of R/Tambaram/Book1/3994/1975 has been produced. Page Nos.4 & 5 are copy sheets bearing Nos.339 & 340 which are hand written, while in Page Nos.6 & 7 are the copy sheets bearing Nos.339 & 340 which are printed. The procedure in the Registration Department is that the copy sheets to be numbered by the machine and not hand written. As regards Page Nos.6 & 7 it is hand written which is also confirmed by the SRO.

2.Mr.K.Venkata Subramanian, Sub Assistant Registrar, Tambaram appeared in person before this Court. Further, referring to the complaint, Meena died on 17.12.1985 and the death certificate is on 10.09.2020. Strangely the LRs certificate had been issued on 20.02.2020 even before the death certificate was issued. As regards the issuance of patta, Mr.K.Balaji, Tahsildar, Tambaram had appeared in person before this Court. Submitted that the third respondent/P.Suresh applied for patta name transfer in Perangalathur Village, Tambaram Taluk for Survey.Nos.230/1B, 125/1A and 125/1C on 07.10.2020 through online from E-Center. Immediately after making

application in e-center, particulars and documents were referred to the Village Administrative Officer. Thereafter, the Village Administrative Officer has conducted inspection, verified the documents. Thereafter, it was approved by the Zonal Deputy Tahsildar based on VAO recommendation and documents scanned sent by the applicant. As regards this case, during e-center scanning of document, only required pages are scanned. In this case, Page Nos.1 and 2, wherein the particulars of vendor and the buyer particulars available and extent of property alone, are scanned. The Village Administrative Officer has processed the same and forwarded to the Deputy Tahsildar who had issued the patta. Based on the recommendation and verification of the Tahsildar. Only in a case of any doubt, physical verification of documents are made. He further submitted that the Encumbrance Certificate was produced along with the application. There is no recording, other than the sale of Sambanantham Chettiar to Meena. The patta was issued by the registration authority and there is nothing to doubt the same. The Sub Assistant Registrar submitted that there is a disclaimer with regard to the issuance of patta "the details of the above property have been provided with due care and with reference to the Acts and Rules. However, in case of any error or omission, the Department cannot be held responsible. The above details of informative in nature."

3.Mr.D.Selvam, learned counsel appearing for the third respondent submitted that he wanted to file his counter in the matter. The third respondent's mother died on 17.12.1985 and he had applied for LR's certificate. Since he is the only LR, certificate was issued in favour of him. Thereafter, he had applied for transfer of patta based on the sale deed in Doc.No.3994 of 1975 dated 20.10.1975. He admits that he is the person who made application for transfer of patta. Based on the application, the authority conducted enquiry found that the document are genuine and patta was issued in his name. The petitioner claims that the 3 rd respondent using the forged documents, has changed the name of patta which is not proper. He further seeks time to file a detailed counter. He further submitted that this Court cannot conduct roving enquiry in proceedings under Section 482 of Cr.P.C., and under Article 226 of the Constitution of India. It is only the concerned Civil Court who is to look into these aspects and he needs time to file a detailed counter with supporting

documents.

4.Post this matter on 11.11.2021 at 2.30 p.m."

7.The order of this Court, dated 11.11.2021 is extracted as follows:-

"Ms.Shinusha, Enrolment No.4563 of 2018, learned counsel appearing for R3, submits that due to heavy rainfall, she is unable to access her office and to take the case bundle. In view of the same, she is unable to make ready counter and make her submission and also getting instructions from the senior counsel. She seeks small accommodation. Post the matter on 18.11.2021."

8.This Court heard the submissions of the learned counsel for the petitioner and the 3rd respondent during previous hearing, which are extracted above.

9.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 produced the enquiry report of the 2nd respondent/Inspector of Police, Central Crime Branch-2, Team-25, Special Land Grabbing Prevention Division, Vepery, dated 13.04.2014 along with the communication sent to the petitioner by speed post. The enquiry was conducted by Mrs.N.Manimegalai, Inspector of Police, attached to the 2nd respondent Police Station. During enquiry, the statement of the petitioner was recorded. From the statement, it is seen that the petitioner referred to various documents from her great grandmother, grandfather extracting the family tree and how the petitioner's mother Koteeswari and her Aunt C.P.Kasthuribai came in possession and enjoyment of the property. The petitioner is the daughter of V.Koteeswar and K.Jayakumari, C.P.Krishnakumar and C.P.Ramkumar are daughter and sons of the said C.P.Kasthuribai and they are the legal heirs of the property. Further, the petitioner gave details about devolvment of the property in patta No.320 in the name of her grandfather G.Sambandam Chettiar and how forgery committed by the 3rd respondent by creating document No.3994 of 1975 and obtained forged patta No.11941, dated 18.10.2020. The petitioner stated that she lodged a complaint with the Collector and Revenue Officials to cancel the forged patta No.11941, dated 18.10.2020. During enquiry, the petitioner was questioned by the 2nd respondent Police as to how kist is paid in the name of the petitioner's grandfather G.Sambandam Chettiar, after his death on 16.08.1996. Since the petitioner already approached the Revenue Officials for seeking patta in her name, the 2nd respondent Police directed the petitioner to approach the Revenue Officials. Hence, he prayed for dismissal of this Writ Petition.

10.The learned counsel for the 3rd respondent was taking time and thereafter, he made his submissions and also filed detailed counter before this Court. The learned counsel for the 3rd respondent submitted that already the petitioner approached this Court by way of Writ Petition in W.P.No.10495 of 2021 seeking cancellation of patta No.11941 issued in the name of the 3rd respondent and restoration of patta No.320 in the name of petitioner's grandfather M.Sambandam Chettiar. When the dispute is with regard to issuance of patta, the present Writ Petition should not to be entertained. After the outcome of patta proceedings and after testing genuineness of the document in No.3994 of 1975, the registration of criminal case if necessary or not, to be decided. At this stage, entertaining the above Writ Petition would only pre-suppose the case of the petitioner and the civil suit in O.S.No.93 of 2020 filed by the 3rd respondent against the petitioner. The learned counsel further submitted that the petitioner does not have a single piece of paper to prove her ownership of the land. The allegation of fabrication of mortgage deed into a sale deed by using computer source code and forging the Government seal, signature of executants, are not sustainable.

11.The learned counsel for the 3rd respondent further submitted that the petitioner has filed the complaint before the 2nd respondent Police and he conducted preliminary enquiry. During enquiry, the petitioner as well as the 3rd respondent appeared and produced documents and gave explanations. The 2nd respondent Police finding that the dispute civil in nature, directed the petitioner to approach the concerned civil Court and the complaint was closed. While that being so, the petitioner ought to have approached the concerned Court under Section 156(3) Cr.P.C or Section 200 Cr.P.C. Without following the same, approaching this Court and filing this Writ Petition directly is not proper. In support of his contention, the learned counsel for the 3rd respondent relied on the following decisions:-

- Sakiri Vasu Versus State of Uttar Pradesh reported in (2008) 2 SCC 409.
- Aleque Padamsee and others Versus Union of India and Ors., reported in (2007) 6 SCC 171.
- All India Institute of Medical Sciences Employees' Union (Regd.) Versus Union of India reported in (1996) 11 SCC 582.
- Gangadhar Janardan Mhatre Versus State of Maharashtra reported in (2004) 7 SCC 768.
- Hari Singh Versus State of Uttar Pradesh reported in (2006) 5 SCC 733.
- Minu Kumari Versus State of Bihar reported in (2006) 5 SCC 733.

- Ramesh Kumar Versus NCT of Delhi reported in (2006) 2 SCC 677.
- Lallan Chaudhary and Ors., Versus State of Bihar reported in AIR 2006 SC 3376.

12.He further submitted that though the decision of Aleque Padamsee case (cited supra) has been referred by the Constitution Bench in the case of "Lalita Kumari Versus Government of Uttar Pradesh reported in 2014 2 SCC 1", but has neither been distinguished nor overruled. Hence, the view taken by the Hon'ble Apex Court in the case of Aleque Padamsee case and Sakiri Vasu case (cited supra) has been subsequently reiterated and reaffirmed in the case of "Sudhir Bhaskar Rao Tambe Versus Hemant Yashwant Dhage and Ors., reported in (2016) 6 SCC 277". In Sakiri Vasu case, it had held that 'if an application under Section 156(3) Cr.P.C., is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of investigating officer, so that proper investigation is done in the matter.' The learned counsel further submitted that there are two competing rights, on one side complainant/victim, the other side 3rd respondent. The petitioner without exhausting alternate remedy, cannot invoke extraordinary Writ remedy as a matter of course.

13.The learned counsel for the 3rd respondent further submitted that to settle the civil dispute between the petitioner and the 3rd respondent, the Investigating Agency/Police officers were justified in non-registration of FIR. The Hon'ble Apex Court in the case of "Indian Oil Corporation Versus NEPC India Limited & Others in Criminal Appeal No.834 of 2002" observed that there is a growing tendency in business circles to convert the civil disputes into criminal. In the case of "Joseph Salvaraja.A Versus State of Gujarat reported in (2011) 7 SCC 59", it is observed and held that when the dispute between the parties constitute only a civil wrong and not a criminal wrong, the Courts would not permit a person to be harassed although no case for taking cognizance of the offence has been made out. In the case of "Inder Mohan Goswami Versus State of Uttaranchal reported in (2007) 12 SCC 1", it had held that the Court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurize the accused. It is further observed that inherent jurisdiction of the High Court under Section 482 Cr.P.C., though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself.

14.It is further submitted that this Court has to eschew itself from embarking upon a roving enquiry into the details of the case. It is also not advisable to adjudge whether the case shall ultimately end in submission of filing in FIR or charge sheet. He relied on the decision of the Apex Court in the case of the "Central Bureau of Investigation (CBI) and Anr., Versus Thommandru Hannah Vijayalakshmi @ T.H.Vijayalakshmi and Anr., in Criminal Appeal No.1045 of 2021" wherein it had held that the High Court should not make a roving enquiry or conduct minitrial while exercising powers under Article 226 and Section 482 of Cr.P.C. The learned counsel further submitted that the adjudication of questions of facts and appreciation of evidence or examining the reliability and credibility of the version, does not fall within the arena of jurisdiction under Article 226 of the Constitution of India. In support of his contention, he relied on the decision of the Hon'ble Apex Court in the case of "State of Orissa Versus Saroj Kumar Sahoo reported in (2005) 13 SCC 540". Further, he placed reliance on the decision of the Hon'ble Apex Court in the case of "State of Haryana and others Versus Bhajan Lal reported in 1992 Supp (1) SCC 335".

15.The learned counsel further submitted that no reason was given by the petitioner not as to approaching this Court instead of approaching the concerned Magistrate. The 3rd respondent questioned this Court for impleading the 4th respondent/Sub Registrar, Tambaram as party and also questioned for directing the 4th respondent and the Tahsildar, Tambaram to produce the materials pertaining to document No.3994 of 1975 and patta No.11941, dated 18.10.2020. Thus, the petitioner misguided the Court to investigate her complaint by impleading the Sub Registrar, Tambaram as party and also misguided the Court to direct the Assistant Commissioner of Police, Anti Land Grabbing Cell, Chennai to monitor the investigation. It is a settled law that this Court should eschew itself from investigating the matter in criminal cases, as the same shall overlap and the same shall be against the Doctrine of separation of powers. In the cases of "Dharam Pal Versus State of Haryana and others" and "K.V.Rajendran Versus Superintendent of Police" guidelines were issued for transfer of investigation that where the Court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having a fair, honest and complete investigation and particularly when it is imperative to retain public confidence in the impartial working of the State agencies. It is sell settled principle that the High Court under Article 226 of the Constitution of India has power to protect the rights of the citizen and to enforce the duty upon the Investigating Agency to

ensure that there is fair and impartial investigation against any person accused of commission of cognizable offence which may also include its own officer.

16.He further submitted that in the case of Gangadhar Janardhan Mhatre (cited supra), it had held that the matter is to be left to investigating agency and to the concerned Magistrate for overseeing the investigation or getting or taking cognizance of the offence or otherwise. It is only in exceptional circumstances, the High Court may be required to step into the investigation to streamline the investigation for ensuring the fairness and impartiality in the investigation. This cannot be recorded on a mere ipsi dixit of a complainant or a victim nor be recorded only because the concerned investigating officer has not acted as per the desire of the victim nor such investigation can be transferred only because the accused apprehends that there will be further strict action by the investigating officer.

17.Thus, the 3rd respondent has strong objection for giving any positive direction in this Writ Petition for registration of FIR or for conducting investigation, since the 2nd respondent had closed the complaint of the petitioner and directed her as well as the 3rd respondent to approach the concerned civil Court.

18.This Court considered the rival submissions and perused the materials available on record and also perused the documents and statements filed the Revenue and Registration Authorities.

19.On perusal of the request of the Sub Registrar, Tambaram in Na.Ka.No.393 of 2021, dated 09.07.2021, which was sent to the District Registrar (Administration), South Chennai, Nandhanam, Chennai, it is seen that the document No.3994 of 1975 is only a mortgage deed and not a sale deed. The encumbrance certificate is not with proper details. The Sub Registrar, Tambaram stated that the forged document No.3994 of 1975 was not available in the revenue records. When the old documents were digitalized by Ninestar agency, the document No.3994 of 1975 seems to be mixed up with other documents. Since the schedule-II records are damaged, the schedule-I records for maintaining the finger print was verified and found that the document No.3994 of 1997 pertains to Vengambakkam Village and not Perungalathur Village. On enquiry with the Sub Registrar, Pallavaram as well as Sub Registrar, Padapai, it was found that a mistake was committed in registering the document No.3994 of 1975 and in the encumbrance certificate of the property of the petitioner at Perungalathur

Village. Hence, the Sub Registrar, Tambaram had written letter to the District Registrar (Administration), South Chennai, Nandhanam, Chennai seeking order to carry out correction and delete the mistake committed in the encumbrance certificate. The Sub Registrar, Tambaram produced the photocopy of the schedule-I register, wherein, it is seen that the document No.3994 of 1975 pertains to a mortgage deed between Maniyammal and Ramalinga Naicker. The schedule-I produced also confirms the same.

20.For better appreciation, the statement of Sub Registrar, Tambaram, dated 27.07.2021 filed before this Court in this Writ Petition, is extracted as follows:-

"Statement of Sub Registrar, Tambaram in W.P.No.11751/21

(I) The document No.3994/1975 was s Mortgage document by one Mr.Dhanapal to Maniammal Comprizing Property at Vengambakkam Village.

(II) In the Website Page No.1 and 2 correctly uploaded as Mortgage deed as Stated above.

(III) The Property in document Number 3994/1975 is not a Sale deed executed by Sambanda Chettiar to Meena of Perungalathur Village Property.

(IV) In the Website, it is wrongly uploaded as page No 3 and 4.

(V) In office index 1 and Thumb impression register clearly show It is a Executed by Mr.Dhanapal to Maniammal as Mortgage deed as stated above. Copies already handed over to CCB Inspector.

(VI) Request already made to District Register (Administration) (AIG Cadre) Chennai South vide Letter No 393/2021 Dated 09.07.2021 to issue orders to rectify the error in the index and website copy.

(VII) Assure our fullest Co-operation for the Enquiry."

21.The Tahsildar, Tambaram filed the statement, dated 28.10.2021 before this Court along with the Death Certificate of Meena (died on 07.12.1985), the mother of the 3rd respondent; Legal heir Certificate, dated 20.02.2020; Encumbrance Certificate; Order of Mr.Abdul Rasik, Deputy Tahsildar, Tambaram for change of patta, vide T.R.2020/0103/35/201462TR, dated 18.10.2020; documents with regard to issuance of patta No.11941, dated 18.10.2020 and FMB sketch for the property in survey Nos.125/1A of 29 cents, 125/1C of 29 cents and 230/1B of 75 cents. These documents confirms that the property stands in the name of the petitioner's grandfather G.Sambandam Chettiyar. From the statement, it is seen that the 3rd respondent submitted

an application for change of patta on 07.10.2020 through online. The Village Administrative Officer Mr.M.Veerakumar had submitted a field report to the Deputy Tahsildar on 17.10.2020. Based on which, on 18.10.2020, Mr.Abdul Rasik, Zonal Deputy Tahsildar, Tambaram issued order for change of patta.

22.For clarity and better understanding, the statement of the Tahsildar, Tambaram, dated 28.10.2021 is extracted as follows:-

"Statement of Tahsildar, Tambaram in W.P.No.11751/21

(I) Suresh S/O Paramasivam had applied for Patta name Transfer in Perungalathur Village, Tambaram Taluk for Survey No.125/1A, 125/1C, 230/1B on 07/10/2020 through online.

(II) The application was recommended by VAO and forwarded to Deputy Tahsildar login on 17/10/2020.

(III) The application was approved by Zonal Deputy Tahsildar on 18/10/2020 based on the VAO recommendation and documents scanned by the applicant.

(IV) The following documents were scanned by the applicant for patta name transfer.

- Sale deed 3994/1975, dt.20/10/1975 registered in Sub Registrar Officer, Tambaram.
- Death Certificate of Meena (Applicant Mother) issued by Head Quarters Deputy Tahsildar, Chengalpattu.
- Legal Heir Certificate of Meena, issued by Tahsildar, Amjikai Certificate No.TN 7202002051995, dated 20/02/2020.
- Certificate of Encumbrance on Property for the above mentioned Survey No.

(V) The above were the required documents for a patta name transfer application as per Government.

(VI) If any of the scanned documents of applicant were proved to be fabricated then this will be taken to the RDO's notice and the patta issued will be cancelled and kept as in the previous form in the records.

(VII) Assure out fullest co-operation for the Enquiry."

23.As stated above, this Court finds that there is deep root conspiracy of Revenue and Registration Department officials, namely VAO, Deputy Tahsildar, Sub Registrar and others in creation of forged document in 3994 of 1975, by which, the patta No.320, which was in the name of the petitioner's grandfather had been transferred to the name of the 3rd respondent in patta No.11941. Hence, the Sub Registrar, Tambaram was impleaded as

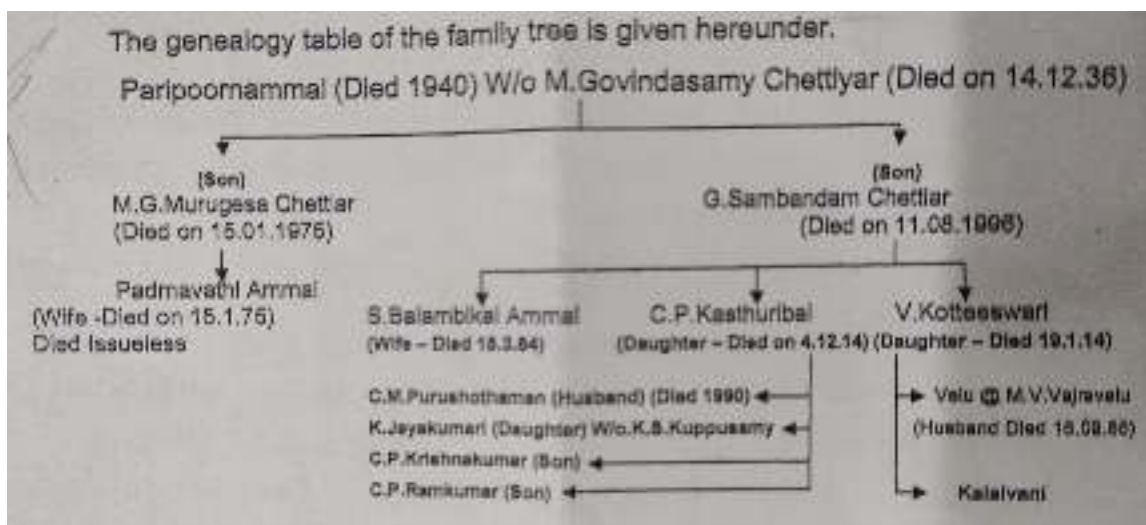
party in this Writ Petition. Further, Mr.K.Balaji, Tahsildar; Tambaram; Mr.K.Venkataraman, Sub Registrar, Tambaram; T.Vijayakumar, Election Deputy Tahsildar, Taluk Office, Tambaram appeared before this Court and produced relevant documents and also made submissions.

24.On perusal of the documents by the Revenue and Registration Authorities, it is found that the document No.3994 of 1975 is a registered mortgage deed in respect of the land in survey No.9/2A in Vengambakkam Village, Tambaram Taluk. It was between one Dhanapal, S/o.Chokkalinga Naicker and Maniammal, W/o.Ramalinga Naicker. The document No.3994 of 1975 was produced by the 3rd respondent along with encumbrance certificate and application for transfer of patta on the premise that G.Sambandam Chettiyar, residing at No.5/42, Jones Road, Saidapet, Chennai sold the property to the 3rd respondent's mother Meena, W/o.Paramasivam, at No.2, Veerasamy 1st Street, Ayanavaram, Chennai-23. The property sold are survey No.125/1A-28 cents, survey No.125/1C-25 cents and survey No.230/1B-70 cents, totally measuring an extent of 1 acre 23 cents, vide patta No.320, situated at Perungalathur Village, Saidapet Taluk, Chengalpet District. The coding sheet, which is a permanent records maintained in the Sub Registrar Office, for document No.3994 of 1975, ought to be numerically numbered and not handwritten. The 3rd respondent is now claiming title over the property based on the coding sheet pertaining to document No.3994 of 1975. On the face of it, it appears forged. The numbers are handwritten, which is not the practise and procedure followed in the Registration Department and the same has been confirmed by the Registration Authorities. The signature seal of the Registration Department are also found to be forged. The signature of the concerned registering officer verified with records, also confirms the forgery committed by the executant to the document and of the Registration and Revenue Department officials. Despite the petitioner in her complaint giving all details to the 2nd respondent Police along with 17 documents including the forged documents, the 2nd respondent Police failed to take any action against the erring officials and other conspirators.

25.The petitioner filed a Writ Petition in W.P.No.10495 of 2021 to set aside the issuance of patta No.11941, dated 18.10.2020 on the favour of the 3rd respondent based on the fabricated document and to restore the original patta No.320 in respect of survey No.125/1A, measuring to 28 Cents, survey No.125/1C measuring to 25 cents and survey No.230/1B measuring to 70 cents. That is with regard to the cancellation of patta issued to the 3rd respondent and issuance of patta in favour of

the petitioner. The pendency of the Writ Petition in W.P.No.10495 of 2021 has no barrier for the prayer sought in this Writ Petition.

26.For better appreciation, the Family Tree of the petitioner is extracted hereunder:-



27.The 3rd respondent filed a suit in O.S.No.93 of 2020 sought injunction against the petitioner and others not to interfere in the peaceful possession and enjoyment of the property. The pendency of civil suit is of no consequence for registration of FIR and to investigate the case. The forgery committed by using the forged document and getting patta transferred came to the knowledge of the petitioner only after she entered appearance in the civil suit on 11.01.2021. Earlier to it, the 3rd respondent with his henchmen trespassed into the petitioner's property damaged the borewell, shed and also taken away the building materials. Further, the 3rd respondent and his henchmen came in three auto and cleared all the petitioner's articles from the property. Though the petitioner approached the 2nd respondent and the Revenue Registration Officials along with relevant documents and materials, no action was taken.

28.The petitioner produced the copy of all documents pertaining to the property in question before this Court in his typed set. The petitioner had also given a representation before the Registry of this Court on 19.01.2022 for listing and disposal of this Writ Petition. Her apprehension was that at the instance of someone, listing of Writ Petition got delayed.

29.From the above discussion, it is clear and apparent that cognizable offence is committed by the 3rd respondent with the connivance of Revenue and Registration Department Officials, which cannot be termed as civil dispute as projected by the 2nd respondent Police, who closed the complaint of the petitioner in a perfunctory manner.

30.It is well known that now the property at Perungalathur are gaining prominence, value increased manifold. It is not possible for the 3rd respondent Suresh alone to make interpolation and correction in official records of Registration and Revenue Department. These type of offences need experienced legal backing. The 2nd respondent Police closed the complaint superfluously not conducting proper, detailed enquiry, which is understandable. On the facts of the case, it is clear and well orchestrated commission of offence involving several persons at various places with requisite force.

31.The persons (Government Officials), who are entrusted with the duty and responsibility to safeguard the official records and protect the right of every citizen, have formed themselves as a group and now, become perpetrators.

32.Thus, the case needs a detailed and sustained investigation to unearth the deep rooted conspiracy and involvement of public servants of various departments and the beneficiaries, who are behind them. This can be done only by a specialized investigating agency.

33.The 2nd respondent Police is hereby directed to handover the records and documents collected pertaining to the complaint of the petitioner to the Director General of Police, CB-CID, Chennai forthwith. The Director General of Police, CB-CID, Chennai, on receipt of the same, shall nominate a Police officer not below the rank of Deputy Superintendent of Police. The concerned Police officer on receipt of the documents and materials, register an FIR and proceed with the investigation, without any delay and file a final report preferably within a period of nine months.

34.The closure report of the 2nd respondent Police on the petitioner's complaint, dated 13.04.2021 is, hereby, dismissed non-est in law.

35.With the above observations and directions, this Writ Petition is disposed of. No costs.

(*)The Xerox Copy of the following documents are enclosed

- Closure report of the 2nd respondent Police submitted before this Court, dated 1304.2021.
- Statement by Sub-Registrar, Tambaram, dated 27.07.2021.
- Statement of Tahsildar, Tambaram, dated 28.10.2021.
- Communication of the Sub Registrar Officer, Tambaram to the District Registrar (Administration), South Chennai, Nandhanam, Chennai in Na.Ka.No.393/2021, dated 09.07.2021.
- Letter of Tahsildar, Tambaram in R.C.2159/2021/B1, dated 20.09.2021.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vv2
To

- 1.The Commissioner of Police,
Chief Police Control Office, Vepery,
Chennai - 600 007.
- 2.The Inspector of Police,
Central Crime Branch - 2, Team-25,
Special Land Grabbing Prevention Division,
Vepery, Chennai - 600 007.
- 3.The Public Prosecutor,
High Court, Madras.

Copy To:

The Director General of Police,
CB-CID, Chennai.(with Encls.)

+4cc to M/s.J.R.K.Bhavanantham, Advocate Sr.12884
+2cc to M/s.M.Baskar, Advocate Sr.13120

W.P.No.11751 of 2021

ssn[co]
srg 28/02/2022