



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No. 15193 of 2020
and
CRL.MP.No.5792 of 2020

1.D.Rajamanickam
2.R.Ravi
3.R. Raghu

... Petitioners

Vs

1. The Sub-Collector cum
Divisional Executive Magistrate
Harur,
Dharmapuri District.

2. The Tahsildar,
Pappireddypatti Taluk,
Dharmapuri District.

3. The Village Administrative Officer,
P. Mallapuram
Pappireddypatti Taluk,
Dharmapuri District.

4. Pavunu

... Respondents

Prayer: Criminal Original Petition filed under Section 482
Cr.P.C. to quash the impugned summons in Na.Ka.No.2035/2020/A1
dated 14.09.2020 on the file of the 1st respondent.

For Petitioners : Ms.P.Kasthuri
for M/s.R.Neelakandan

For Respondents : Mr.A.Gopinath for R1 to R3
Government Advocate (CrI. Side)
No appearance for R4

ORDER

This petition has been filed to quash the impugned summons
in Na.Ka.No.2035/2020/A1 dated 14.09.2020 on the file of the 1st
respondent.

2. The 1st petitioner is an absolute owner of the properties



to an extent of 3.90 acres of land, out of which, 3.80 acres comprised in S.No.37/5 and 10 cents in S.No.37/6 in Ottupatti, B. Mallapuram Village, Pappireddipatti Taluk, Dharmapuri District. The said land was purchased by him by a registered sale deed dated 11.02.1975 from the legal heirs of one Perumal. From the date of purchase, the petitioner and his family members are in possession and enjoyment of the properties. They also constructed a terrace house and dug a well in the subject properties and out of the same, during the year 1996, under the Tamil Nadu Encroachment Act, notice was issued from the office of the 3rd respondent and as such, the petitioner filed a suit in OS.No.31 of 1996 on the file of Sub-Court, Dharmapuri, for declaration of title in respect of the subject properties and also for permanent injunction. As against the Revenue Officials, the said suit was decreed in favour of the petitioner by the judgment and decree dated 11.09.2003. In pursuant to the judgment and decree, the 1st petitioner was issued patta in patta No.160.

3. While being so, again the 4th respondent, in the year 2008, interfered with the peaceful possession and enjoyment of the subject properties. Hence, again, the petitioner was constrained to entertain a suit in OS.No.477 of 2008 on the file of the District Munsif Court, Pappireddypatti, for permanent injunction as against the 4th respondent herein. It was also decreed in favour of the petitioner herein. However, again the 4th respondent's husband and others filed a suit in OS.No.483 of 2008 on the file of the District Munsif Court, Pappireddipatti, as against the petitioners' father for a declaration declaring that their alleged right over an alleged pathway on the patta land owned by the petitioner and also for permanent injunction restraining the petitioners' father and the petitioners from enjoying all the alleged pathway. The said suit was dismissed by a judgment and decree dated 31.01.2014. Further, it is held that the 4th defendant and others do not have any right over the said properties and also, there was no pathway for the patta land owned by the petitioners. Further, it is held that the 4th respondent and others are trespassing into the said lands. In fact, the petitioners' father, again challenged the notice issued by the 1st respondent herein for an injunction restraining the 1st respondent and his subordinates from in any manner interfering with the possession and enjoyment of the subject properties and this Court granted an interim order and the main Writ Petition is pending. Thereafter, the 1st respondent cancelled the patta issued in favour of the petitioners' father and ordered to change the classification as "Conditional Punjai Tharisu" in the Taluk Revenue Records. It was also challenged by the 1st petitioner in W.P.No.21128 of 2015 and interim order was granted and main Writ Petition is still pending.



4. While being so, again the 4th respondent, in order to grab the properties from the petitioners, lodged a false complaint with false averments. It was only with a view to initiate proceedings under Section 145 of Cr.P.C. The above order was obtained by the petitioners and also the Writ Petitions filed by the petitioners are pending and as such, the 1st respondent has no jurisdiction to initiate any proceedings under Section 145 of Cr.P.C. That apart, the petitioners are in possession and enjoyment of the subject properties and the 4th respondent was already declared that they are trespassers in respect of subject properties and the pathway is situated in the subject properties. Therefore, the impugned proceedings cannot be sustained as against these petitioners and it is liable to be set aside. Accordingly, the impugned summons in Na.Ka.No.2035/2020/A1 dated 14.09.2020 on the file of the 1st respondent, is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gv

To

1. The Sub-Collector cum
Divisional Executive Magistrate
Harur, Dharmapuri District.
2. The Tahsildar,
Pappireddypatti Taluk,
Dharmapuri District.
3. The Village Administrative Officer,
P. Mallapuram, Pappireddypatti Taluk,
Dharmapuri District.
4. The Public Prosecutor,
High Court, Madras,
Chennai.

+1cc to M/s.R.Neelakandan, Advocate, S.R.No.35603

CrI.O.P.No. 15193 of 2020 and
CRL.MP.No.5792 of 2020

MG(CO)
CT/24/06/2022