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CrI.OP.No.15403 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 01.09.2022	Pronounced on 04.11.2022
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

CrI.OP.No.15403 of 2022

A.K.R.Vetriazhagan,
S/o.Late.Radhakrishnan,
F-101, Raheja Nest Apartments,
No.2, Avvai Shanmugam Lane,
Royapettah, Chennai 600 014.

... Petitioner

Vs.

The Director of Vigilance & Anti Corruption,
Chennai City II Detachment,
Alandur,
Chennai 600 016.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the Respondent to take the Petitioner's complaint dated 20.06.2022 and nominate a police officer for fair and proper investigation and to file a police report as per the provisions of the Prevention of Corruption Act, 1988 and other penal laws in force.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.S.Udaya Kumar
Government Advocate (CrI. Side)



Cr1.OP.No.15403 of 2022

ORDER

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This Criminal Original Petition has been filed to direct the Respondent to take the Petitioner's complaint dated 20.06.2022 and nominate a police officer for fair and proper investigation and to file a police report as per the provisions of the Prevention of Corruption Act, 1988.

2.The Petitioner is the husband of the owner of the land and building in RS No.89/1A4 to an extent of 19622 sq. ft., of land with buildings in RS Nos.89/1A2 and 89/1A3 by sale deed dated 02.03.2006 and is also a power of agent of the undivided half share owner. He filed the above Criminal Original Petition for a direction as stated supra.

3.The sum and substance of the complaint dated 20.06.2022, which is relevant for determination of this case are as under:

3(a).The Petitioner herein on behalf of his wife and his principal agent had sent a complaint on 20.06.2022 to the respondent/Director of Vigilance and Anti-Corruption alleging large scale corruption by S.Raja, District Registrar,



Cr1.OP.No.15403 of 2022

Chengalpet by misusing his position for private gain for committing criminal misconduct by his nexus with the land grabbers and real estate mafias requested to take criminal action.

3(b).The said S.Raja is working as District Registrar, Chengalpet (hereinafter referred as Accused Officer) is a public servant defined under Section 2(c) of Prevention of Corruption Act and it is further alleged that he was acting as per the pre-arranged plan with the *modus operandi* with three named individuals as stated in Paragraph 4 of the complaint. It is a specific allegation that he named two persons in Paragraph 13 of the complaint, who are brain behind the entire episode and it is further alleged that the real estate mafias and land grabbers do not like to show their face to the outer world, and they are master mind to operate the above stated person to grab the valuable properties lying in and around Chengalpet registration District by bribing the Accused Officer.

3(c).In the instant case, the “persons mentioned” in paragraphs 4 and 13 of the complaint had formed a syndicate and bribed the Accused Officer to cancel



Cr1.OP.No.15403 of 2022

WEB COPY

the sale deed registered in favour of the Petitioner's family and the Accused Officer has also cancelled the parent document of the year 1976. In the Appeal filed by the Petitioner, the DIG of Registration had examined the issue in detail, posed various questions to trace the genealogy of the family tree, carefully compared the name of the vendors, vendees, four boundaries to the properties dealt with under various sale deeds from 1918 to 2006 and arrived at a conclusion that the above duo have given a false complaint by falsely disputing the title, which was passed on to various hands for more than 100 years. Circular issued by the IG of Registration dated 25.03.2022 was also referred to.

3(d). The Accused Officer has close connections with the political bigwigs, who are protecting him for some other oblique motive. After he took charge as the District Registrar, Chengalpet, he has started misusing and abusing his position and started passing several orders as per his whims and fancies, after getting illegal gratification from the persons, who were waiting for opportunities to achieve their bad motives.

3(e).The said Accused Officer being a public servant as defined under



Cr1.OP.No.15403 of 2022

Section 2(c) of the Prevention of Corruption Act, 1988, but he has continuously obtained illegal gratification from the land grabbers and real estate mafias to pass orders as per their expectations. The various orders passed by the District Registrar are all recorded in the 68/2 register maintained at the District Registrar's office at Chengalpet.

3(f).It is further alleged that the said Officer is well known corrupt public servant. He had accumulated wealth disproportionate to his known source of income. He never passed any orders, unless his pecuniary demands are met. He has habitually accepts bribe and indiscriminately passed orders left and right to the chosen persons.

3(g).He has hand and glove with a group of land grabbers/real estate mafias, who will set up someone as the legalheirs of the original owner, who would have died a century ago and give a complaint to the District Registrar, S.Raja. Immediately, S.Raja will extend his helping hands by committing criminal misconduct after receiving bribe.



Cr1.OP.No.15403 of 2022

WEB COPY

4(a).It is a specific allegation in the complaint that the Accused Officer had usurped the jurisdiction of Civil Court to discuss and dissect the title and also to hold the parent document, though it is 100 years old as a fraudulent one. In Paragraph 13 of the complaint, name of the private persons also mentioned. For reasons this Court is not re-producing their name in this order. The crux of the complaint is that four persons named in the complaint at Paragraph 4 and Paragraph 13, which is also same in the grounds, are politically influenced persons or alleged to be real estate mafias/land grabbers join in connection with the Accused Officer, District Registrar.

4(b).Based on the Petition, which is projected as a anonymous Petition in respect of lands that are closure to multinational companies in the Old Mahabalipuram Road and in the Chengalpet District acted immediately though it is anonymous without any address proof, the Accused Officer in the rank of District Registrar entertained the same under the *suo motu* powers under Section 68(2) of the Registration Act and conduct an enquiry and either he declares the present sale deed of the present owner as a fraudulent and also held that the ancient documents, which are more than 75 or 80 or 100 years as a fraudulent



Cr1.OP.No.15403 of 2022

documents and also held that parent documents of the present owners of the land are not entitled for further registration and further directed the Sub Registrar Viz., SRO concerned not to acted upon those documents, resulted in various number of Appeals filed before the DIG Registration Department (Appeals).

5. Alleging criminal misconduct against the Accused Officer, the complaint was filed before the Vigilance Department and the same was referred to head of the Department of the Registration viz., IG, Registration Department and the present Criminal Original Petition has been filed to take the complaint as FIR and to investigate and to file a final report, based upon the investigation.

6. Heard Mr.N.Manokaran, learned counsel for the Petitioner and Mr.S.Udaya Kumar, learned Government Advocate (Crl. Side).

7. It is placed before this Court by letter dated 12.07.2022, the Inspector General of Registration, Chennai has addressed the Respondent herein that as against the very same Accused Officer six complaints have been received for criminal misconduct and are vigilance in nature.



Cr1.OP.No.15403 of 2022

WEB COPY

8.Learned counsel for the Petitioner would contend that this particular District Registrar of Chengalpet, viz., S.Raja, Accused Officer is in the habit of taking *suo motu* powers conferred under Section 68(2) of the Registration Act and has struck down various sale deeds of 55, 60 or 75 years old documents as fraudulent and also further held that those documents cannot be used for making any other registration of the documents, which is against the provision of law and also direction issued by the High Court in this connection.

9(a).Learned counsel for the Petitioner has contended that the “*modus operandi*” at the instigation of persons mentioned in Paragraph No.13, the property identified by those persons, anonymous Petition has been received by the Accused Officer and subsequently, he holds parent documents pertaining to those lands as fraudulent and also ordered not to be acted upon for the purpose of further registration and hence, the act of the Accused Officer falls under sub Section (iii) of Section 13(1)(a) of the Prevention of Corruption Act, which reads as “*any property under his control as a public servant or allows any other person so to do*”



Cr1.OP.No.15403 of 2022

WEB COPY

9(b).Also drew my attention to the judgment of the Hon'ble Supreme Court in the Case of ***Dr.Subramanian Swamy Vs. Dr.Manmohan Singh and Another*** reported in ***(2012) 3 SCC 64*** and submitted that certain part of the allegation can only come to light in further investigation. A third party cannot be expected to furnish all the informations that may be required for initiation of the Prevention of Corruption Act and also relied upon the judgment of this Court by Hon'ble Mr.Justice N.Kirubakaran in W.P.No.29133 of 2017, dated 04.12.2017 as to the certain corrupt practice said to have been carried on by the Department of Registration.

10.The learned Government Advocate (Crl. Side) further stated that after verifying the averments made in the complaint, the Inspector General of Registration (Head of the Department) having satisfied of certain irregularities alleged to have been committed by the Accused Officer has constituted a committee consisting of the Assistant Inspector General of Registration and the District Registrar and the committee scrutinised the orders passed by the Accused Officer and based upon the report given by them that the Accused



Cr1.OP.No.15403 of 2022

Officer has committed misconduct and dereliction of duty and also serious criminal misconduct and accordingly, issued a charge memo dated 12.08.2022 in 27106/V3/2022 and based upon the finding rendered by the committee, three charges have been framed against him.

11.The Inspector General of Registration having been satisfied with the finding rendered by the committee has come to the conclusion that the Accused Officer committed 'criminal misconduct' and also placed the Accused Officer under suspension from 30.08.2022.

12.(a)Whether the exercise of *suo motu* powers, vested with the Officer, is an arbitrary exercise or for remuneration, other than salary is the moot question.

12(b).The committee constituted by the Inspector General of Registration found the number of cases that are taken under *suo motu* powers purported to be under Section 68(2) of the Registration Act and rendered a specific finding that the action of the accused officer suffers from arbitrariness. If such exercise of power is for other than remuneration then it is a matter for preliminary enquiry



Cr1.OP.No.15403 of 2022

and for proceedings under Prevention of Corruption Act.

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13.The learned Government Advocate appearing for the State (Vigilance) would submit that based upon the preliminary enquiry report, departmental proceedings has been initiated and charges have been framed and in view of the gross criminal misconduct he was also placed under suspension with effect from 30.08.2022.

14.The report of the preliminary enquiry conducted by the team of the Senior Officers in the rank of A.I.G(Registration) has been placed before this Court in a sealed cover.

15.Based on the Petitioner's complaint that was forwarded by the Vigilance Department to the I.G of Registration (HOD of the Registration Department) had initiated preliminary enquiry, by constituting of Senior Officers in the rank of A.I.G (Registration) and they have taken the entire list of the cases handled by the Accused Officer and has come to the conclusion that several number of cases has been taken up on anonymous Petition are found to be



Cr1.OP.No.15403 of 2022

without signature and there are number of cases has been taken even without the proof of address and in all the cases, he had concluded that the respective title deeds of the respective land owners are defective and also held that the title deeds of the respective owners cannot be used for selling the property or the Registration Department ultimately closed the application and such an action of the Officer, is found to be arbitrary by the team of the A.I.G (Registration) that has submitted the preliminary report to the I.G.

16.After perusing the same, this Court finds that almost all the applications are anonymous in nature and notices have been issued to the land owners. Orders have been passed either declaring the current sale deeds held by the land owners as invalid, and further held to be unfit for further registration, thereby a “clog has been created over the title” of the said person.

17.This Court is not observing anything about the finding of the said Accused Officer, in the said proceedings, except to say that though he has chosen to close the application, however, in penultimate paragraph of the order, he had held that the sale deeds in favour of the present owners cannot be used for either



Cr1.OP.No.15403 of 2022

mortgaging or selling or entering agreement. In other words, the owner of the lands has been made handicapped by directing them, not to deal with the property and their title to the property has been clipped thereby, forcing the said land owners to sell the property for a rock bottom price.

18.This being the same in all the cases. The said Accused Officer has taken the same stand of 'clipping the title of the land owners' in all cases and the land owners, whose sale deeds are 15//30/70/90 years old original sale deeds have been declared as fraudulent in the penultimate paragraph of the said order.

19.Section 30 of the Indian Evidence Act says that any document, which is more than 30 years is an ancient document.

20.Now by passing such an order, he has clipped the title of the land owners, who have derived the title from the document. This Court is not observing anything over the order passed by the DIG (Appeals). Appeals filed by some land owners had been allowed by DIG (Appeals) and set aside the order passed Accused Officer also assumes significance.



Cr1.OP.No.15403 of 2022

WEB COPY

21.Now the point for consideration is that whether the Accused Officer has committed 'criminal misconduct' as defined under the Prevention of Corruption Act.

22.In the instant case, this Court could see that there is a multicore scam at the end of the tunnel. The finding arrived at by the preliminary committee constituted by the I.G of Registration clearly indicates that the properties that are situated in the Old Mahabalipuram Road (OMR Road), Chennai, where the lands are considered as gold mines. Moreover, Articles published in various daily publications as well as other weekly journals have already reported and exposed about the Accused Officer and his manner of functioning in helping the land grabbers are annexed in the typed set of papers.

23.In view of the escalation of the real estate, OMR, Chennai and Chengalpet areas are most happening places in the real estate in dealing with the lands. In many of the properties falls under the prime locality and local area of the O.M.R road. While so, records reveal that based upon the multiple



Cr1.OP.No.15403 of 2022

anonymous Petitions from various persons (whose identity are not even known), the Accused Officer, irrespective of the fact that the sale deeds and their parent title documents are more than 30/45/50/60/75/90 years, chosen to declare those ancient documents also fraudulent documents and further held they are unfit for presentation of any registration purpose in future, thereby made the land owner as handicap on the title, which duly corroborates the allegation in the complaint and there is more to it. Besides, it appears that it is only a tip of the iceberg.

24.To sum up, the Petitioner's case is that by virtue of the order passed by the District Registrar, in all these anonymous Petitions, in penultimate paragraph, wherein, he passed an order cancelling or rejecting the Petitions. However, in effect of the order passed in penultimate paragraph, whereby, he declared the sale deeds, which are more than 30 years, 40 years, 70 years & 90 years, against the provisions of Section 30 of the Indian Evidence Act, 1982, which are ancient documents proved to be genuine and in the event he entertained doubt that he ought to have referred matter to the Civil Court.

25.After going through the remarks made by the enquiry committee



Cr1.OP.No.15403 of 2022

constituted by the Inspector General of Registration to enquire into the conduct of the Accused Officer, in dealing with the complaint and other cases under Section 67 (3) of Registration Act, I find that the contention of the learned counsel for the Petitioner appears to be found to have force and '*prima facie*' material have surfaced in the preliminary enquiry to demonstrate and disclose commission of the “cognizable offence” as against the Accused Officer is made out.

26(a).After perusing the report of the preliminary committee and their remarks therein, and the head of the department had placed the Accused Officer on suspension and the fact that the Accused Officer has indulged in converting the anonymous Petition, as basis, for initiation of *suo motu* proceedings under Section 68(2) of the Registration Act and thereafter, on a tangential proposita to hold as stated supra in paragraph 24 above. All is not well and some hidden forces are behind him in making those kind of orders which is unprecedented to understand and to comprehend.

26(b).The factual matrix of this case, more so, the case referred to by the



Cr1.OP.No.15403 of 2022

Complainant/Petitioner relating to order dated 21.06.2021 and other cases are prior to 02.09.2021.

27. Accordingly, only a proper investigation can unearth the hidden private persons, who are alleged to be real estate mafias/land grabbers behind District Registrar in making such an order on anonymous Petition, thereby the present land owners are forced to sell the property for a rock bottom price.

28(a). In view of the clog created over the title of the land owner, it can be ascertained only by the investigation and hence as a *prima facie* case is made out for a cognizable offence, under Section 13(2) of Prevention of Corruption Act and the Accused Officer being a public servant as defined under Section 2(c) of the Prevention of Corruption Act, 1988 and such an order has been passed while discharging his official duty.

28(b). Accordingly, I find that an enquiry contemplated under Section 17A of the Prevention of Corruption, 1988 as to the decision taken by the Public servant in discharge of his official function or duties has to be carried out. Hence,



Cr1.OP.No.15403 of 2022

necessary directions has to be given to the Respondent Police to hold enquiry after getting previous approval under Section 17A of the Prevention of Corruption Act, 2018.

29.Hence following the law laid down by the Hon'ble Apex Court in the case of *Dr.Subramanian Swamy Vs. Dr.Manmohan Singh and Another* reported in *2012 (3) SCC 64*, I am satisfied that 'sufficient materials' have been placed before this Court for issuance of positive direction to the respondent to register the complaint filed by the Petitioner herein against the named accused officer and to hold necessary enquiry as contemplated under Section 17A of the Prevention of Corruption Act, 1988 and depending upon the outcome of the said enquiry, the respondent/ Vigilance Department is directed to take further action in accordance with law.

30.With these directions, this Criminal Original Petition is allowed.

04.11.2022



Cr1.OP.No.15403 of 2022

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The Public Prosecutor,
High Court,
Chennai 600 104.



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Cr1.OP.No.15403 of 2022

RMT.TEEKAA RAMAN.J,

sai

Pre-delivery Order made in

Cr1.OP.No.15403 of 2022

Dated: 04.11.2022