



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.04.2022
PRONOUNCED ON : 20.04.2022

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CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.32302 OF 2019
AND
CRL.M.P.NO.17759 OF 2019

1.Vasanthi
2.Vijaya Karikalan
3.V.Karuppusamy
4.P.Ponnusamy
5.Tamilselvan
6.R.Kathirvel

...Petitioners / Accused 1 to 6

Vs.

1.State Rep. By
Inspector of Police,
City Crime Branch,
Coimbatore City,
Coimbatore.

...1st Respondent / Complainant

2.Ravi

...2nd Respondent / Defacto
Complainant

PRAYER : Criminal Original petition has been filed under Section 482 of Cr.P.C, prayed to call for the records of FIR in Crime No.28 of 2019 on 30.05.2019 on the file of the first Respondent herein and quash the same.

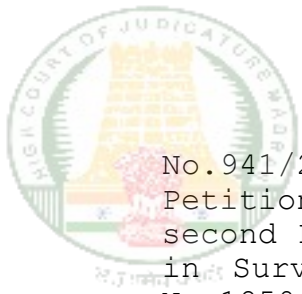
For Petitioners : Mr.N.Ponraj

For Respondents : Mr.R.Vinothraja
Government Advocate (Crl. Side) for R1
Mr.D.Kanagasundaram for R2

ORDER

The Petitioners herein seeks to quash the FIR in Cr. No.28 of 2019 on the file of the Central Crime Branch, Coimbatore City under Sections 423, 465, 468, 471, 420, 120 (b), 506 (i) and Section 34 of IPC.

2. The learned counsel for the Petitioners submits that the Petitioners had been in enjoyment of the property in Survey



No.941/2-F as per Patta No.1850 measuring at 080 cents. The Petitioners are the Descenders of Viswanatha Gounder. The second Respondent herein is alleged to have purchased a property in Survey No.941/2 which is not properly described in Patta No.1850 with specific boundaries. While so, the Petitioners herein who had been enjoying the property without hindrance for more than thirty years in Patta No.1850 had been disturbed by the second Respondent claiming title through sale deed, but the boundaries mentioned in the sale deed are different from that of the property in enjoyment of the Petitioner herein. The second Respondent has influence with Government Officials and he is a Doctor by Profession. Using his influence, he attempted to convert a civil dispute into a criminal case by registering an FIR in Cr.No.28 of 2019. Therefore, the Petitioners had approached this Court for quashing the FIR.

2.1. The learned counsel for the Petitioners relied on the typed set of papers in which the document in support of the Petitioners, is enclosed. The learned counsel for the Petitioners relied on the Page Nos.20,1,15 and 17 of the typed set of papers which are the copy of the Patta Passbook which shows the extent and Survey Number of the land in possession of the family of the Petitioners herein. The second Respondent had purchased the properties in and around the Petitioners' land. Therefore, misusing his influence, he is attempting to dislodge the Petitioners from possession of the Petitioners' ancestral property.

2.2. In Page No.64 of the typed set of papers, the Petitioners had enclosed a copy of the legal heir certificate and Page No.63 of the typed set of papers, the Petitioners had enclosed the death certificate of the Viswanatha Gounder, who is the husband of Subbathal, father of Karuppasamy and father-in-law of Vasanthi. The said Vasanthi/first Petitioner is the widow of the predeceased son of Viswanatha Gounder. The second Respondent had filed a Petition seeking cancellation of Patta in favour of the Petitioners before the District Revenue Officer. As per proceedings of the District Revenue Officer in Page Nos.85 to 87 of the typed set of papers, Patta in favour of the Petitioners in Survey No.941/2-F had been cancelled and it was granted in favour of the second Respondent. Further the learned counsel for the Petitioners submitted that the second Respondent has wielded his influence. Therefore, he had preferred a complaint against the Revenue Officials as though the Revenue Officials colluded with Petitioners herein.

2.3. The learned counsel for the Petitioners invited the attention of this Court to the finding of the District Revenue Officer wherein he had not stated anything incriminating against the Revenue Officials. While so misinterpreted the finding of



the District Revenue Officer, as though, the Revenue Officers colluded with the Petitioners and granted Patta in favour of the Petitioners and seeking to convert the civil case into a criminal case is not at all justified. Possession is a subject matter to be dealt by the Civil Court. Only civil Court is competent to arrive at a conclusion who is in possession of the property. When there are rival claims, instead of sorting out the dispute through Civil Court, the second Respondent had employed short cut method to foist a criminal case against the Petitioners who had been in enjoyment of the property for more than thirty years as descendents of Viswanatha Gounder.

3. The learned counsel for the second Respondent vehemently objected to the argument of the learned counsel for the Petitioners and claimed that the District Revenue Officer had given a clear finding that the Petitioners has no loco-standi to claim ownership of the property in Survey No.941/2-F. It is the further submission of the learned counsel for the second Respondent/complainant that the second Respondent's vendor is Krishnasamy, who had purchased the property from Mangi w/o. Ramamathari, Chellakutty and Nanjammal. The learned counsel for the second Respondent/defacto Complainant invited the attention of this Court that the second Respondent had claimed title properly through the ownership claimed by Gopala Konar who was the actual owner for the Survey No.941/2. Gopala Konar had executed the sale deed in Document No.880/1921 infavour of the Ramasakkili. As per sale deed in Document No.3494/1928 for 1.90 Acre, Ramasakkili obtained Patta No.843 of Coimbatore District for the land in Survey No.941/2. From Sakkili, the property vested in Mangi w/o. Ramamathari from whom it was purchased by Krishnasamy S/o. Velappa Gounder. Krishnasamy had sold the property to several people including Muthusamy S/o. Subbanna Gounder, Dharmalingam S/o. Subbiah Gounder, Arunkumarasamy S/o. Kumarasamy and Sivagami Subbiah S/o. Subbiah. After purchase, the second Respondent had purchased other properties in and around the Petitioners' properties and had developed the property as real estate. At that time, the Petitioners herein objected the same. Therefore, the second Respondent had obtained copies of the Revenue Records based on which he registered the complaint for Land Grabbing, which is objected by the Petitioners herein with the help of the Revenue Officials. That is why the Revenue Officials had been arrayed as Accused as per the complaint given by the second Respondent/defacto complainant.

3.1. The learned counsel for the second Respondent vehemently objects to quash the FIR in Cr. No.28 of 2019 stating that after finding of the District Revenue Officer, the Petitioners have to get relief by way of appeal to the Government, but they had not done so. They had filed the Writ



Petition challenging the finding of the District Revenue Officer. That Writ Petition was dismissed on merits. Therefore, the finding given by the District Revenue Officer, Coimbatore had attained finality.

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3.2. Further the learned counsel for the second Respondent/defacto Complainant submitted that the Petitioners herein under the strength of the Patta issued by Revenue Authority in their favour in Patta No.941/2-F had alienated the properties to third parties causing loss to the second Respondent/defacto Complainant. Therefore, the second Respondent/defacto Complainant was forced to file a Petition before the District Registrar seeking to cancel the sale deeds executed by the Petitioners herein. That Petition filed by the second Respondent was also rejected stating that those facts are to be agitated only before the Civil Court. Against the finding of the District Registrar, the second Respondent/defacto Complainant had preferred an appeal before the Deputy Inspector General of Registration at Coimbatore and the order passed by the District Registrar was set aside and the relief was granted to the second Respondent/defacto Complainant. The Petitioners herein had preferred a Writ Petition against the order passed by the Deputy Inspector General of Registration. That Writ Petition was dismissed. Therefore, the line of the argument of the learned counsel for the Petitioners is objected to by the learned counsel for the second Respondent/defacto Complainant. If the Petitioners' request is considered and the FIR is quashed, it will result in miscarriage of justice. Therefore, the learned counsel for the second Respondent/defacto complainant seeks to dismiss this Petition.

4. On perusal of the records filed along with the typed set of papers and the submission of the learned counsel for the Petitioners as well as the second Respondent/defacto Complainant, along with the fact that after UDR only there had been dispute between the neighbors, who had been in enjoyment of their respective properties till the date of UDR Patta. UDR Patta has given rights to claim and counter claim over the same property. Therefore, as rightly pointed out by the learned counsel for the Petitioners, this case cannot be considered as Land Grabbing case. It is a normal civil suit wherein the Petitioners' right had been had been altered, extinguished by the second Respondent/defacto complainant attempting to convert the civil dispute into a criminal case. In the light of the above finding there had been a dispute regarding boundaries of the properties. Under those circumstances, the Civil Court only can decide and grant relief to the Petitioners as well as the second Respondent. In the light of the above discussion, the Petitioners' prayer to quash the FIR is accepted.



In the result, this Criminal Original Petition is allowed. The FIR in Cr.No.28 of 2019 on the file of the First Respondent is quashed. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To.

1.The Inspector of Police,
City Crime Branch,
Coimbatore City,
Coimbatore.

2.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.D.Kanagasundaram, Advocate Sr.No.31241 (22/06/2022)

Cr1.O.P.No.32302 of 2019

BS(CO)
RVM(12/05/2022)