



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/09/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.OP(MD)No.6677 of 2019

and

Cr1.MP(MD)No.4491 of 2019

K.Sakthivel

: Petitioner

Vs.

1.The Revenue Divisional Officer,
Tiruchirappalli.

2.The Inspector of Police,
K.K.Nagar Police Station,
K.K.Nagar,
Tiruchirappalli.

3.B.Muthukumaran

4.Ganesamoorthy

: Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in Na.Ka.A1/4654/2017 on the file of the 1st respondent and quash the same.

For Petitioner

: Mr.R.Sundhar Srinivasan

For R1 and R2

: Mr.SS.Madhavan
Government Advocate
(Criminal side)

For 3rd Respondent

: Mr.S.Vinod Sathyalazar

For 4th Respondent

: Mr.J.Lawrance



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This criminal original petition is filed seeking quashment of the proceedings in Na.Ka.A1/4654/2017, dated 3012/2017 on the file of the 1st respondent and quash the same.

2.The facts in brief:-

The property in survey No.14/1 measuring 36 cents and in Survey No.14/2 measuring about 36 cents originally belonged to one Nazurudeen Sahib by way of purchase. Later, the above said person converted the property into house sites and formed lay out and later, sold to one Kuppusamy, on 22/12/1965. Later that was purchased by one Muthu on 06/05/1981. From the above said Muthu, the petitioner namely K.Sakthivel and his sister namely Subashree purchased the same, on 30/03/2012 in respect of Plot No.M-2. After purchase, the revenue records were transferred in their name. The property lying on the western side of the plot No.M-2 is bearing Plot No.M-1 and some persons appears to have encroached the above said property and they demanded to form a pathway in Plot No.M-2, which belongs to the petitioner. A suit in O.S No.



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1391 of 2006 was filed on the file of the Principal District Munsif, Tiruchirappalli. During the pendency of the above said suit only, the petitioner and his sister purchased the property. They were impleaded as parties. That was decreed, on 25/04/2014. The above said encroachers instigated one Balakrishnan and the 4th respondent herein in collusion with the 3rd respondent, created a document, on 29/11/2012 by settlement. The patta that was produced along with the document is a fraudulent one. Later, that patta was cancelled and restored to the original owners. The first respondent, the Revenue Divisional officer for the above said order, cancelled the patta without proper notice to the interested parties. Again, the Revenue Divisional Officer has not served any notice to the pattadhars. The above said Balakrishnan claimed that he is the son of the above said Muthusamy, who sold the property to Nazurudeen Sahib. In the encumbrance certificate, it has been wrongly mentioned that no sale has been effected. Without noticing the same that was executed by the above said Muthusamy, the above said order has been passed.

3. With these allegations, the above said Muthukumar lodged a complaint before the Deputy Commissioner, Trichy stating that the petitioner and others interfered with the



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possession of the property in survey No.14/1. But without making any preliminary enquiry, the same was forwarded to the first respondent. Based upon the above said recommendation, the case was registered under section 145(1) Cr.P.C stating that there is an apprehension of breach of peace between them because of the dispute between the two groups of people. Challenging the above said patta proceedings, WP(MD)No.8923 of 2018 has also been filed and now it is pending. Since in the facts and circumstances of the case, the proceedings that has been initiated by the first respondent under section 145(1) Cr.P.C is liable to be quashed.

4.Heard both sides.

5.It was submitted before this court by the learned Government Advocate (Criminal side) to the effect that the enquiry by the first respondent about to be conducted on 11/04/2022. The out come of the enquiry was ordered to be informed to this court. But later, it was informed that no further development took place. So the matter has been reserved for orders.



6.Mr.B.Muthukumaran, who is the son of Balakrishnan lodged a complaint, on 30/01/2017 stating that they are the owners of the property situated in Survey Nos.14/5 and 14/6 in TS Nos.3 and 14 belong to them. On 13/09/2017, he went to the place and at that time, one Ganeshamoorthy and other persons picked up quarrel and stated that they must be given mamol. Later, he took steps to measure the property. After completing the official formalities, he visited the property, on 13/09/2017 to measure the property. At that time, Al namely K.Sakthivel came there and demanded mamol and made objection to measure the property and based upon the above said complaint, the case was registered under section 145 Cr.P.C and a recommendation has been made to the Sub Collector, who is the second respondent herein to initiate action under section 145 Cr.P.C stating that there is an apprehension of breach of peace. The Sub Collector, Trichy, took cognizance and also issued notices to the parties. Now challenging the above said proceedings, this petition has been filed solely on the ground that it is purely a civil dispute between the parties and the real fact has been suppressed and the sale of the property to the above said Nazurudeen Sahi, by the ancestral of the complainant father namely Balakrishnan has been totally suppressed and false case has been given.

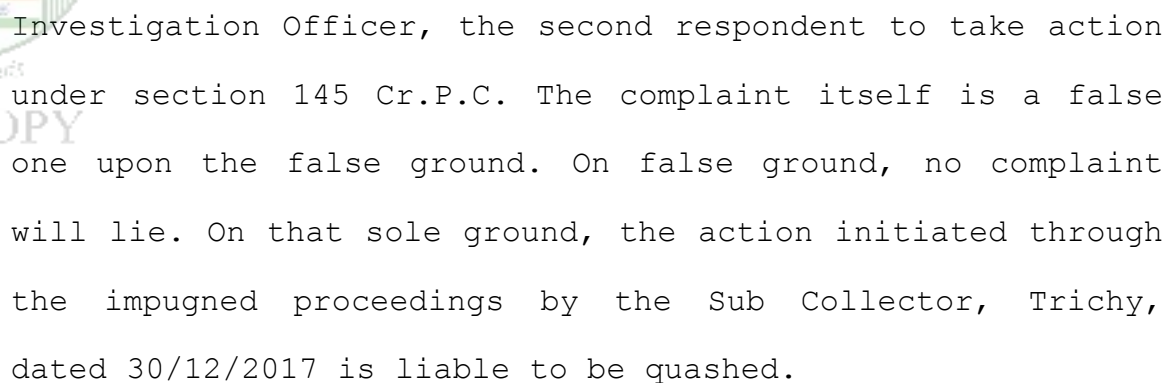


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7.Perusal of the records that has been produced in the form of judgment in O.S No. 1391 of 2006 shows that judgment is pertaining to some other issue between one Vellaisamy and the petitioner. But the above said 3rd respondent is not a party in the above said suit. The subject matter of the writ petition is for the plot No.2. So, this is the subject matter of the suit in O.S No.1391 of 2006 on the file of the Principal District Munsif Court, Trichy.

8.No doubt that the petitioner has been declared to be the title holder in respect of the property the patta proceedings. But it appears that the above said writ petition is pending before this court. It is seen that the complaint that was given by the 3rd respondent itself is a false one. Without disclosing the proper and true facts, it has been simply stated in the complaint that the petitioner and other accused persons are demanding mamol, who are the land brokers in profession and they are making disturbances.

9.In the facts and circumstances, without properly even enquiring the matter to find out the truth by making preliminary enquiry, recommendation has been made by the



10. In the result, this criminal original petition is **allowed**. The impugned proceedings, dated 30/12/2017 is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

12.09.2022

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Internet:Yes/No
Index:Yes/No
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To,
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- 1.The Revenue Divisional Officer,
Tiruchirappalli.
- 2.The Inspector of Police,
K.K.Nagar Police Station,
K.K.Nagar,
Tiruchirappalli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J . ,

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Cr1.O.P. (MD) No. 6677 of 2019

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