



CrI.O.P.No.2700 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.2700 of 2022

and

CrI.M.P.No.1331 of 2022

V.Narasimhan

...

Petitioner

/vs/

1. The State of Tamil Nadu,
Rep by The Inspector of Police,
Team 18, Central Crime Branch,
Vepery, Chennai – 600 007.

2. Dr.Gopal Narayanan

...

Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records culminated in Crime Number 214 of 2021 dated 30.12.2021 on the file of the 1st respondent and quash the same as against the petitioner herein.

For Petitioner

... Mr.D.Ferdinand

For R1

... Mr.S.Santhosh
Government Advocate (crl.side)

For R2

... G.Thiyagarajan



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ORDER

This Criminal Original Petition has been filed to call for the records culminated in Crime Number 214 of 2021 dated 30.12.2021 on the file of the 1st respondent and quash the same as against the petitioner herein.

2. The learned counsel for the petitioner submitted that petitioner is the first accused in Crime No.214 of 2021. The 2nd respondent through his power agent P.K.Naresh Kumar had given complaint against the petitioner and other accused making false allegations. The allegations in the complaint are that V.Narasimhan/petitioner herein, D.Mohan, Munirathnam cheated the defacto complainant /2nd respondent by fabricating documents and created a sale deed in respect of his property. 2nd respondent is NRI Senior Citizen. He purchased a property in Survey No. 121/2F 0.07 cents Karampakkam Village, Maduravoyal Taluk on 30.10.1982 through sale deed bearing No. 3654 of 1982. After purchase, he applied for patta and he was given patta for this property in patta No. 313 of 1994. Taking advantage of his absence in India, and with an intention to cheat him, one Munirathnam and D.Mohan colluded and executed fraudulent sale deed in respect of property in favour of D.Mohan for a sum of Rs.61,812/-, on 14.05.1990, through registered sale deed in document No.1525 of 1990. It is



recited in the sale deed that vendors had given power to power agent under Power of Attorney deed in Doc.No.180 of 1980. This Power of Attorney deed is a forged document. Neither Munirathnam nor Mohan has title or right over the property. D.Mohan had again sold the property in favour of the petitioner V.Narasimhan quoting the property in Survey No.121/23 to an extent of 6450 sq.ft in Doc.No.5242 of 2001. Narasimhan applied for patta, without verifying the records and following the procedures. The then Tahsildar issued Patta in Patta No.1132 dated 21.05.2022 in favour of Narasimhan. Therefore, a complaint was given by Gopal Narayanan. On the basis of the complaint given by Gopal Narayanan through his Power Agent Naresh Kumar, FIR in Crime No.214 of 2021 was registered for the offence under Sections 464, 467, 468, 471 & 34 of IPC was registered. Challenging the FIR, petitioner filed this quash petition.

3. The learned counsel for the petitioner further submitted that the 2nd respondent herein purchased a property in Survey No.121/23 measuring 6450 sq.ft on 14.05.1990 from one S.Balakrishnan through his Power Agent Munirathnam. The property purchased by him has specific four boundaries. Later, Mohan sold the said property to the petitioner V.Narasimhan on



14.12.2001 through a registered sale deed. Thereafter, petitioner constructed building in the suit property and living there for more than 20 years. The Revenue Department had issued patta in respect of the property to D.Mohan and to the petitioner for survey No.121/223. In support of his submissions, he produced the copies of the sale deed in favour of D.Mohan and in favour of the petitioner with the pattas in their name. He further submitted that in a proceedings of Revenue Divisional Officer, Chennai Central Division in Rc.No.221/2022/A3 dated 25.08.2022, which was issued on the basis of representation given by the 2nd respondent/ Dr.Gopala Narayanan to cancel the power of attorney issued against the petitioner, it was observed as follows:

"Thiru Narasimhan claims a total extent of 6325 Sq.feet. Thiru.V.Narasimhan has purchased the property from Thiru.Mohan as per Document No.5242/2001, dated 14.12.2001, the said Narasimhan is in possession and enjoyment of his property in S.No.121/23 of Karambakkam Village for more than 20 years and residing there in a pucca House. However, Thiru Gopalan Narayanan was not in possession and enjoyment of the property held by Thiru Narasimhan, as per the the document of sale submitted by the Gopal Narayanan's representative, it is seen that the four boundaries are not tallied on ground as on date and the



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boundaries are recited in a routine manner and not specific on all the sides. This claimant has also not submitted any patta or any other Revenue records in his favour. One cannot identify the land as per this boundary recitals. Further, the respondent Thiru.Narasimhan is in possession of 6325 sqft or 0.06.00 Hec, for more than 20 years. Even if admitted that Thiru Narasimhan has unauthorisedly occupied the land purchased by Thiru G.Narayanan it can be termed as adverse possession. In the circumstances, Thiru Gopalan Narayanan may seek remedy only from competent civil court for eviction of un authorised occupant for declaration of title."

4. It is also his submission that the 2nd respondent had filed suit in O.S.No.390 of 2022 on the file of the District Munsif Court at Poonamallae seeking relief of mandatory injunction against the defendants 1 and 2 therein to appoint surveyor to identify the scheduled mentioned property bearing Plot No.100 and to protect the interest of the plaintiff and also for relief of permanent injunction. He further submitted that the report of the RDO shows that 2nd respondent is not in possession and enjoyment of the property purchased by him in 1982. From the prayer sought for in O.S.No.390 of 2022, it is apparent that 2nd



respondent is not sure about the identity of his property. Further, he submitted that, even if the respondent has right in respect of the property purchased by him, through registered sale deed dated 30.10.1982, in the light of the suit already filed, the only remedy available to the 2nd respondent is to get the remedy before the Civil Court. So far as the petitioner is concerned, he is a bona-fide purchaser of value. After purchase of the property, he constructed building and is living there. Therefore, he prayed for quashing of proceedings.

5.The learned counsel for the 2nd respondent submitted that 2nd respondent is a Doctor by profession and Non-Resident Indian. He purchased a property for valuable consideration. However, the property purchased by him was again sold to the petitioner. This is nothing but a fraud committed by the petitioner in collusion with other accused in this case. He drew the attention of this Court that the petitioner had attested in the sale deed in favour of D.Mohan. It is also his submission that the Power of Attorney deed was executed in favour of Munirathnam by the Owners. The power was given only in respect of about 87 cents in Survey No.121/2. The total extent of land available in Survey No.121/2 was 1.52 acres. Out of these 1.52 acres, an extent of 0.64.92 acre was already



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6.The learned Government Advocate (Crl. Side) submitted that, as per the direction of this Court to file status report after enquiring both the parties, status report is filed today (01.02.2023). He further submitted that, in compliance with



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the direction of the Court, both the parties were called for enquiry with the relevant documents. The enquiry revealed that plot number mentioned in the Power of Attorney Deed was wrongly given as plot No.180 of 1980 instead of 180 of 1990. Subsequently, it was rectified by the District Registrar, Guindy. The Revenue Divisional Officer, Chennai conducted enquiry and he concluded that the matter involved is civil in nature and the Revenue Authorities cannot interfere in a civil dispute.

7. Considered the rival submissions and perused the records. From the narration of the facts and submission of learned Counsels appearing for the parties, it is apparent that there is an issue with regard to identification of the property purchased by the 2nd respondent and the property purchased by the petitioner. It is evident from the suit filed by the 2nd respondent seeking mandatory injunction to identify the property with the help of the Surveyor and other relief. The perusal of the copy of sale deed produced by the 2nd respondent shows that, he purchased the property to the extent of 6 7/8 cents in S.No.121/2 at Karmbakkam Village with the following boundaries.



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North by : part of land in S.No.121/2

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South by : Common Pathway in S.No.121/2

West by : part of land in S.No.121/2 as mentioned in the sale deed.

8. It is true that 2nd respondent was also granted patta for the land purchased in S.No.121/2F. The sale deed indicates that there was an extent of 1.38 ¼ acres available in S.No.121/2 and out of this 1.38 ¼ acres, 2nd respondent was sold 6 7/8 cents. The property was sold by Bala Krishnan through the Power of Attorney Swamynathan. It is not in dispute that Bala Krishnan and other owners had executed deed in favour of Munirathnam on 29.03.1990 for sale of properties including property in S.No.121/2. It is specifically mentioned that, out of 1.52 acres available in S.No.121/2, already 0.64.92 acre was sold and power of attorney document was executed for sale of 0.34.92 acre land for road and 0.53.08 acre available as plots. Thereafter, Balakrishnan sold an extent of 6450 sq.ft through his Power Agent Munirathnam to D.Mohan in S.No.121/2 on 14.05.1990. The four boundaries of this properties are



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North by : Plot No.111

South by : Plot No.116

East by : 40 feet Road

West by : Plot No.100

9. It is further seen that D.Mohan sold the property to the petitioner on 14.12.2001 with an identical four boundaries. This property has Plot Number 101. As pointed out by the learned counsel for the petitioner after the property was purchased by the petitioner, patta was issued to the petitioner. From the sale deeds, it is apparent that the property purchased by the 2nd respondent is difficult to be identified for the reason that in all the four directions, it is shown as part of remaining portion of S.No.121/2. On the other hand, the sale deed produced by the petitioner shows that the property purchased in the sale deed is identifiable for the reason that there are specific four boundaries and there are specific Plot Numbers. As said earlier, there is a building in it. The copy of the photographs of the building is also produced before this Court. It is also supported by report filed by the Revenue Officer. Thus it is clear from the documents produced that there is really an issue with regard to identification of property purchased by the



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2nd respondent. It is claimed by the 2nd respondent that the property purchased by him forms part of the property purchased by the petitioner. In the considered view of this Court, this issue can only be resolved by a Civil Court. Already suit in O.S.No.390 of 2022 on the file of the District Munsif Court at Poonamlae is pending. Petitioner is bonafide purchaser and there is no criminal intention to cheat the 2nd respondent by purchasing his property. Therefore, this Court is of the view that the registration of the FIR in a Civil dispute is against law and it is liable to be quashed.

10. In this view of the matter, this Criminal Original Petition is allowed and the proceedings against the petitioner in Crime No.214 of 2021, on the file of the respondent police is hereby quashed. Consequently, connected miscellaneous petition is also closed.

01.02.2023

Index: Yes/No
Speaking/Non speaking order
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G.CHANDRASEKHARAN, J.

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To

1. The Inspector of Police,
Team 18, Central Crime Branch,
Vepery, Chennai – 600 007.
2. The Public Prosecutor,
High Court, Madras.

**CrI.O.P.No.2700 of 2022
and
CrI.M.P.No.1331 of 2022**

01.02.2023

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