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*Crl.O.P.Nos.22681, 21955, 21956, 21957 of 2018
and 22 of 2020*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

**Crl.O.P.Nos.22681, 21955, 21956,
21957 of 2018 and 22 of 2020**

and

**Crl.M.P.Nos.12597, 12063, 12064 and
12065 of 2018 and 23, 7883, 7885, 7886, 7888 and 7889 of 2020**

Crl.O.P.No.22681 of 2018:-

1. S.Suganthi
- 2.K.S.Deepa Rani
- 3.K.S.R.Raj Kumar
- 4.K.R.Seenivasan

...Petitioners

-Vs-

1. The State of Tamil Nadu
Represented By the Inspector of Police,
City Crime Branch (CCB), Salem City.

2. The Tahsildar, Salem
Salem District.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the F.I.R.No.22 of 2018 on the file of the respondent Police and quash the same only in so far it relates to the petitioners.



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For Petitioners : Mr.R.John Sathyan, Senior Counsel
for Mr.S.P.Prabhu

For Respondents : Mr.L.Baskaran
Government Advocate (Crl. Side)

Crl.O.P.No.21955 of 2018:-

S.Prakash

...Petitioner

-Vs-

1.The Inspector of Police,
Central Crime Branch,
Salem,
Salem City.

2.The Tahsildhar,
Salem City,
Salem.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records of FIR in Crime No.22 of 2018 on the file of the respondent Police and quash the same.

For Petitioner : Mr.Abdu Kumar Rajarathinam
Senior Counsel for
Mr.Paramasivados

For Respondents : Mr.L.Baskaran
Government Advocate (Crl.side)

Crl.O.P.No.21956 of 2018:-

1.Lenin Kumar

...Petitioner

-Vs-



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1. The Inspector of Police,
Central Crime Branch,
Salem,
Salem City.

2. The Tahsildhar,
Salem City,
Salem.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for all the records of FIR in Crime No.22 of 2018 on the file of the respondent Police and quash the same.

For Petitioner : Mr.Abdu Kumar Rajarathinam,
Senior Counsel
for Mr.Paramasivados

For Respondents : Mr.L.Baskaran
Government Advocate (Crl.side)

Crl.O.P.No.21957 of 2018:-

A.M.Raju

...Petitioner

-Vs-

1. The Inspector of Police,
Central Crime Branch,
Salem,
Salem City.

2. The Tahsildhar,
Salem City,
Salem.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records of FIR in Crime No.22 of



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2018 on the file of the respondent Police and quash the same.

For Petitioner : Mr.Abdu Kumar Rajarathinam,
Senior Counsel
for Mr.Paramasivados

For Respondents : Mr.L.Baskaran
Government Advocate (Crl.side)

Crl.O.P.No.22 of 2020:-

T.Meena

...Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented By the Inspector of Police,
City Crime Branch (CCB),
Salem City.

2.The Tahsildhar
Salem.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the F.I.R.No.22 of 2018 on the file of the 1st respondent Police and quash the same only in so far it relates to the petitioner.

For Petitioner : Mr.Mohammed Riyaz for
Mr.G.Naresh Kumar

For Respondents : Mr.L.Baskaran
Government Advocate (Crl.side)



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COMMON ORDER

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These Criminal Original Petitions have been filed to quash the proceedings in F.I.R.No.22 of 2018 on the file of the 1st respondent Police.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The two groups of persons lead by K.R.Srinivasan and B.V.Nagaraj. Both are residing in the vicinity of land ad-measuring 0.70 acres or 30,400 sq.ft situated at Block No.10, Ward AD within the limits of Salem Corporation, Shevapet Periyeri Village, Salem. They also attempted to manipulate the records and fake documents, incomplete sale deeds to grab the Government lands, in which the office of the Assistant Commissioner of Police and Traffic Police Station are located since 2004. The said land is part and parcel of land acquired by the Headquarters Deputy Collector, Salem, dated 16.03.1907 vide Award No.85 of 1907 published in the Gazette dated 05.02.1907. The original owner of the land is Anthonisami Pillai. The boundaries of the acquired



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land ad-measuring 2.86 acres has been clearly mentioned therein. As per the award, the compensation of Rs.1393.96 was paid to the owner of the land. Thereafter, possession of the said land was taken over by the Police Department for construction of Quarters. While being so, the said B.V.Nagaraj filed a writ petition in W.P.No.3598 of 2017 for a direction to the Salem Municipal Commissioner and others to demolish the existing Traffic Police Station comprised in S.No.16/1. This Court directed the District Collector, Salem, to verify the documents and relevant records and if the Collector comes to a conclusion that the property in question is a private property, then it directed to take steps to acquire the property, now utilized by the Assistant Commissioner of Police and then determine the market value and pay compensation as per law.

4. As directed by this Court, the District Collector, conducted an enquiry and its proceedings dated 06.10.2017 concluded that the said property is not a private property and it is a part and parcel of the property of Government vested with the Police Department acquired in the year 1907. In fact, the said K.R.Srinivasan or his daughter Malliga



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failed to appear for enquiry conducted by the District Collector.

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Therefore, the subject land ad-measuring 30,400 sq.ft stands registered as Government Poromboke land and it is in possession and enjoyment of the Police department as per the revenue records. During the enquiry, the said K.R.Srinivasan produced documents claiming that the Will said to have been executed by one Soundarampillai dated 15.03.1934 is an unregistered document and not probated by any Court of law. Therefore, it is a fake one. It was not produced before the settlement authorities for issuance of patta. Further, the entries made in the revenue records were corrected and restored to its original classification. The mutation of revenue records by the Tahsildar in the proceedings dated 20.05.2011 is in violation of procedure as per rule and Revenue Standing Order 31. That apart, there was no notice to the Police Department and without an order of assignment, recording the name of Jayaraman as “Patadar” is irregular. The said Jayaraman is not in possession and there was no receipt produced by the accused for payment of tax due.

5. Insofar as the accused are concerned, the said K.R.Srinivasan had executed a Power of Attorney for the subject land dated 20.12.2002



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registered vide Document No.847 of 2002 in favour of J.Malliga D/o S.Jayaraman. According to K.R.Srinivasan and S.Jayaraman, one Soundarampillai was the owner of the property. After his demise, the disputed property devolved on S.Jayaraman as per unregistered Will dated 15.03.1934. According to the petitioners, in the Survey and Settlement, while Jamin was taken over by Government as per Tamil Nadu Estate Abolition and Conversion into Ryotwari Act 1948, the disputed land was wrongly classified as Government Poromboke in the year 1957. Therefore, the said Jayaraman had applied for change of classification into patta land before the Director of Survey and Settlement and the Director of Survey and Settlement by an order dated 23.02.1996 ordered change of classification. Thereafter, the power holder viz., K.R.Srinivasan filed a writ petition in W.P.No.1851 of 2011 for a direction to implement the order. As directed by this Court, the Tahsildar effected changes in the Town Survey Land Register, incorporating the name of Jayaraman. Based on the mutation of records, the power holder K.R.Srinivasan effected sale deeds in favour of his family members. The said K.R.Srinivasan has suppressed the fact of the order dated 23.02.1996 of the Director of Survey and Settlement and obtained a



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direction from this Court. Thereafter, he also filed a suit for declaration before the District Munsif Court in O.S.No.1870 of 2004 and the same was dismissed for default on 06.06.2011. The said B.V.Nagaraj filed a writ petition in W.P.No.22875 of 2018 challenging the order of the District Collector and the same was dismissed by this Court. Therefore, now, the petitioners are claiming right over the property without any original document. Hence, the complaint.

6. On receipt of the complaint, the first respondent registered an FIR in Crime No.22 of 2018 for the offences under Sections 465, 468 and 471 IPC.

7. There are totally 11 accused, in which the petitioners in Crl.O.P.Nos.21955 to 21957 of 2018 are arrayed as A3 to A5. The petitioners in Crl.O.P.No.22681 of 2018 are arrayed as A7 to A10 and the petitioner in Crl.O.P.No.22 of 2020 is arrayed as A11.

8. It is seen that the entire allegations made in the complaint is based upon the proceedings of the District Collector, Salem, in



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Na.Ka.no.9348/2017/E dated 06.10.2017, which itself is a subject matter of pending appeals before the Commissioner of Land Administration, pursuant to the direction issued by the Hon'ble Division Bench of this Court. The complaint reads that the said writ petitions in W.P.Nos.26856 to 26858 of 2017 were dismissed by an order dated 04.04.2018 challenging the order passed by the District Collector, Salem. All the writ petitions were disposed with the following direction:-

“ This Court in the light of the above facts and circumstances permits the petitioner herein to file individual appeal before the commissioner land administrator, Chennai, Chepauk by enclosing the relevant and authenticated documents along with petitions for stay within a period of four weeks from the date of receipt of a copy of this order and the said official on receipt of the appeal, may entertain the same, if the papers or otherwise in order, without putting the issue of limitation and taken up by the petition for stay and give a disposal in accordance with law within a period of four weeks from the date of entertainment of the appeals and till such time the possession of the petitioners in respect of the property is in question shall not be dispossessed/disturbed by the respondent 2 to 6.”

9. The appeals are still pending with the Commissioner of Land Administration. Admittedly, all the petitioners are subsequent purchasers of their respective portion of the land by the registered sale deeds. As per the sale deeds, originally the land was owned by the said S.Jayaraman S/o Soundarampillai to an extent of 30,400 sq.ft situated at Ward G, Block No.10, T.S.No.16/1, Old Survey No.633 at Periyeri village, Salem.



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However, it was wrongly classified as Government land during the Town Survey period. Therefore, he filed a petition for re-classification of patta land before the Director of Land Survey and Settlement Department, Chennai. After enquiry, by an order dated 23.02.1996 it was held that the above said land was wrongly classified as Government land and ordered to restore it as patta land. Accordingly, the said land was re-classified as patta land in the name of S.Jayaraman. Thereafter, by the registered Will dated 13.01.1998, his daughter J.Malliga bequeathed the land ad-measuring 24,500 sq.ft out of 30,400 sq.ft. However, the revenue authorities failed to implement the order of Director of land survey and did not issue patta for the said land. Therefore, she filed a writ petition before this Court in W.P.No.1851 of 2011 for a direction and as directed by this Court, patta for the said land was issued in favour of J.Malliga. After the demise of the said Jayaraman, the said J.Malliga became the absolute owner of the said property and she had executed a Power of Attorney dated 20.12.2002 in favour of K.R.Srinivasan for development of the said land. The petitioners paid the sale consideration and purchased their respective house plots.



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10. Therefore, they are absolute owners of their respective plots and they are no way connected with the land which was acquired for the purpose of construction of Police Quarters comprised in T.S.No.16/4. The land claimed by the 7th accused is comprised in T.S.No.16/1. Therefore, the said land is no way connected with the land which was already acquired by the Government by acquisition in the year 1907.

11. On the petition submitted by B.V.Nagaraj, the first accused and others were called for enquiry by the District Collector, Salem. However, according to them without giving opportunity, the order has been passed on 19.10.2015, thereby ordered to remove the name of the said S.Jayaraman from the revenue records in respect of the land in T.S.No.16/1 and to replace the name of B.V.Nagaraj and three others. The said B.V.Nagaraj is arrayed as first accused. He made a false claim by fabrication of documents. That apart, as against the order passed by the District Collector, Salem, dated 06.10.2017, the subsequent purchasers of the land filed a writ petition before this Court in W.P.No.22001 of 2018 and a Hon'ble Division Bench of this Court, by an order dated 03.09.2018, directed the petitioners to file individual



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appeals before the Commissioner of Land Administration as against the order passed by the District Collector, Salem. Accordingly, they filed appeals which are pending.

12. Therefore, no allegations are made out to attract the offences under Sections 465, 468 and 471 IPC, since the petitioners are the bonafide purchasers.

13. The crux of the allegation in the impugned FIR is that the petitioners had purchased the land which were already acquired under the Land Acquisition proceedings in the year 1907. The petitioners purchased their respective house plots in the year 2011. Whereas the acquisition happened in the year 1907. Now, after a period of 111 years, the present complaint has been lodged with the above said allegation.

14. It is not the allegation of the prosecution that the petitioners are related to other co-accused. Even as per the allegations made in the FIR, it cannot be said that there is any prima facie case made out as against the petitioners to attract the offences under Sections 465, 468 and



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471 IPC. That apart, all the petitioners are bonafide purchasers of the property.

15. Therefore, the FIR registered in Crime No.22 of 2018 on the file of the first respondent for the offences under Sections 465, 468 and 471 of IPC cannot be sustained as against the petitioners and it is liable to be quashed. Accordingly, the FIR in Crime No.22 of 2018 on the file of the first respondent is hereby quashed as against the petitioners alone.

16. In the result, these Criminal Original Petitions are allowed. Consequently, connected Miscellaneous petitions are closed.

19.10.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

1. The Inspector of Police,
City Crime Branch (CCB), Salem City.
2. The Tahsildar, Salem,
Salem District.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

mn

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