



Crl.O.P.No.15827 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.15827 of 2021 and
Crl.M.P.No.8631 of 2021

1. A.Ramamoorthy
2. E.Jayalakshmi
3. P.R.Elangovan

...Petitioners

Vs.

1. State rep. by,
Inspector of Police,
Central Crime Branch,
Vepery, Chennai – 600 008.

2. Mangalraj

...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in connection with Crime No.59 of 2021 on the file of the Inspector of Police, Central Crime Branch, Chennai, and quash the same in so far as the petitioners are concerned.

For Petitioners : Mr.Mohamed Riyaz for
Mr.M.Shahjahan

For 1st Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

For 2nd Respondent : Mr.R.Ganesh kumar



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ORDER

This Criminal Original Petition is filed to quash the FIR in Crime No.59 of 2021 on the file of the Inspector of Police, Central Crime Branch, Chennai insofar as the petitioners are concerned.

2. The petitioners are accused 1 to 3 against whom the 2nd respondent / defacto complainant has given a complaint by alleging that the petitioners and their vendors have managed to create documents pertaining to the property in S.No.251/1 situated Zamin Pallavaram Village, Pallavaram Taluk, Kancheepuram District.

3. The brief facts of the case are that the 2nd respondent/defacto complainant and one K.Vincent are the absolute owners of the property comprised in S.No.251/1, Zamin Pallavaram Village, Pallavaram Taluk, Kancheepuram District measuring an extent of 66 cents. The property is classified as Zamindari Ryotwari Punja and Nanja Land of Kulaam Azhathullah Khan Sahib, Bahadur Hyder Ali Khan Sahib, Kasheem Ali Khan Sabib, Kirnisha Begum Sabib, Hazanuresha Begum Sahib of Zamin in Pallavaram Village, Saidapet, Chengalpet District. The Mitta of the Zamin



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in his proceedings dated 04.06.1939 and 20.06.1940 issued patta in favour of Rangoon Rathna Naicker. The ownership of Rangoon Rathna Naicker in the property in Survey No.251 / 1 measuring 66 cents is reflected in 10 (1) Adangal Extract and Chitta. The Head Quarters Deputy Tahsildar, Tambaram in his proceedings dated 05.03.2006 issued Patta in the name of Rangoon Rathna Naicker vide Patta No.1295. The property was not subjected to any encumbrances and the legal heirs of Rangoon Rathna Naicker had inherited the property and continued to be in occupation of the property paying urban land tax for every fasili till the year 2006.

4. The said Rangoon Rathna Naicker had 3 children viz, Ramu Naicker, Athilakshmi and Kanniyammal. His son Ramu Naicker predeceased his father, leaving his wife Muniyammala as legal heir. During the year 1965, Rangoon Rathna Naicker died intestate leaving behind the daughter-in-law Muniyammal and his 2 daughters as legal heirs. On 14.05.2007, the 2nd respondent and Vincent had purchased 48.253 Cents in Survey No.251/1, Zamin Pallavaram Village from the legal heirs and the family members of late Rangoon Rathna Naicker through their registered



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Power of Attorney one Koil Pillai in Doc.Nos.1016/2017 to 1022/2017, Doc.No.1067/2017, Doc.No.1088/2017 and Doc.No.1089/2017 for a valuable consideration of Rs.52,78,100/- through a registered Sale Deed in Doc.No.2901/2007 on the file of the Sub-Registrar, Pallavaram. Again on 07.06.2007 he has purchased the remaining 17.747 cents in Survey No.251/1, Zamin Pallavaram Village from the remaining legal heirs and family member of Late Rangoon Rathna Naicker through the Registered Power of Attorney, Koil Pillai in Doc.Nos.1165/2007 to 1169/2007 for a valuable consideration of Rs.19,40,000/- by a Registered Sale Deed in Doc.No.3285/2007 on the file of the Sub-Registrar, Pallavaram.

5. In pursuant to the above sale deeds, the defacto complainant and Vincent are in possession and enjoyment of the suit property. The original owner Rangoon Rathna Naicker had also owned the property comprised in 283/9 to an extent of 17 cents which is adjacent to the property comprised in S.No.251/1, Zamin pallavaram Village. On 07.06.2007 and 14.09.2009 the defacto complainant's relative Deepakraj had purchased the said property from the heirs of Rathna Naicker in Doc.No.3284/2011 and



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Doc.No.2902/2007. While so, the 1st petitioner herein had filed a suit in O.S.No.72 of 2011 before the Sub Court, Tambaram, challenging the sale deed in Doc.No.3284/2007 and Doc.No.2902/2007 on the ground that a portion of the property was already purchased by Chinnasamy in Doc.No.1784/1967. The petitioners and their associates had committed forgery and fabricated the sale deed in order to grab the land. On these allegations, a case has been registered in C.C.No.1187 of 2013 on the file of the Judicial Magistrate, Alandur.

6. Heard the learned counsel for the petitioners, learned Government Advocate (Crl. Side) appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent.

7. The learned counsel for the petitioners submitted that the suit property originally belonged to one Murugappa Naiker who had two sons by name Ratna Naicker and Thulukkanam Naicker. Ratna Naicker was entitled to 50 cents in both S.Nos.289/9 and 251/1 and he sold the property to one Chinnasamy on 17.08.1967. Baby, Adilakshmi, Mani, Abimanan and Kothandan are the legal heirs of the said Chinnasamy, among which



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Kothandan died intestate, leaving five legal heirs. The legal heirs of Chinnasamy sold their share to the first petitioner herein, he in turn sold 33 cents in his property to the 2nd petitioner. Similarly, Thulukkanam Naicker sold 33 cents in S.No.251/1 in favour of Thangavelu and the said Thangavelu has two legal heirs by name Nagarajan and Gopu and they were jointly sold 11 cents to one Elangovan on 26.11.2007.

8. Since the persons who do not have any right over the property claimed title, the first petitioner has filed a suit in O.S.No.72 of 2011 before the Sub Court, Tambaram. The defacto complainant himself has filed a suit O.S.No.42/2013 before the Sub Court, Tambaram. After having filed the suit, the defacto complainant has filed the criminal complaint in order to give criminal colour to the civil dispute. In fact the defacto complainant has created documents without any title and in this regard, the first petitioner has given a complaint against the defacto complainant, but on which no action has been taken.

9. The learned counsel for the 2nd respondent submitted that the 3rd petitioner Elangovan is none other than the husband of the 2nd petitioner and



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she herself held fixatious title in respect of the property in S.No.251/1.

Even the document in the Sub Registrar office themselves have been manipulated. Though it is stated that the power holder is one Baby, it has been mentioned vide several documents, the power document does not make any mention about the properties comprised in the transaction. So there is a rank forgery committed by the accused in order to grab the properties and only if a proper investigation is ordered to be conducted, the criminal intention of the petitioners will come to light.

10. On perusal of the records, it is seen that the suit property originally belonged to one Murugappa Naicker who had two sons by name Rathna Naicker and Thulukkanam Naicker. Rathna Naicker said to have sold his share to one Chinnasamy and the legal heirs of chinnasamy in turn had sold the same in favour of the petitioners 1 and 2. The 2nd respondent / defacto complainant has stated that the documents have been created for the purpose of grabbing the properties. He has attracted the attention of this Court to the Power of Attorney, which did not show the survey number of the property which was subsequently transferred on the stray of the power



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of attorney.

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11. There are serious allegations made that the petitioners and the vendors of the petitioners have technically manipulated the documents in the Sub Registrar Office itself and many of the transactions were not disclosed in the encumbrance certificate. There are civil suits pending between the parties and they have equally contested the civil suits also. The disposal of the civil suits would itself help the parties to assert their respective title by producing valid and acceptable documents. If it is evidenced that the petitioners have tampered the documents and created the same for the purpose of this case, then it cannot be ignored. Only if a proper investigation is carried out that would reveal whether the parties had criminal intention in executing the sale deeds and other documents or whether it is due to their lack of knowledge and understanding of their respective title and the scope of the power document. In that case, if there are materials available to show that the petitioners had criminal intention then the first respondent Police is bound to file charge sheet. If the investigation reveals that if the documents are created out of ignorance and



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lack of understanding about the right of title, the same can be canvassed by the respective parties before the Civil Court and in such circumstance, the criminal case is unnecessary. Whatever may be the fact, those facts can be known only if the detailed investigation is allowed to be done.

12. In view of the above stated reasons, I feel it is appropriate to direct the first respondent Police to complete the investigation as expeditiously as possible and file the final report.

13. With the above observation, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

15.02.2023

vum

Index:yes/No

Speaking order / Non speaking order



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R.N.MANJULA,J.

vum

To

1. The Inspector of Police,
Central Crime Branch,
Vepery, Chennai – 600 008.

2. The Public Prosecutor,
Madras High Court,
Chennai.

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Crl.M.P.No.8631 of 2021

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