



Crl.O.P.No.25011 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :01.11.2023

Pronounced on :08.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25011 of 2023

Gokula Rao N

..Petitioner/Party-in-person

/versus/

1.Mr.Janardhanan

2.Mr.Srinivasan

.. Respondents/Accused

Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for records and set aside the judgment of dismissal and order dated 03.08.2023 in Cr.R.C.No.75 of 2021 passed by the learned III Additional Sessions Judge, (FAC)II Additional Sessions Court at Chennai, by confirming the judgment of dismissal and order dated 03.08.2023 in Crl.M.P.No.10190 of 2021 dated 06.05.2021 passed by Chief Metropolitan Magistrate and pass an order for further enquiry on my private complaint filed before the Chief Metropolitan Magistrate.

For Petitioner :Mr.Gokula Rao, N.
Party in person

ORDER

The Petitioner herein, being aggrieved by the dismissal of his private complaint by the Chief Judicial Magistrate, Egmore, had preferred Revision Petition before the II Additional Sessions Judge, City Civil Court, Chennai. The



revision petition was also dismissed confirming the order of the Chief Judicial Magistrate. Hence, the present Petition is filed under Section 482 of Cr.P.C.

2. The petitioner appeared in person and made his submission elaborately.

3. According to him, his Greate Grand father Vai.Raghavalu Naidu purchased 1.88 cents of agricultural land in Uthukkadu Village, Ryotwari, vide registered document No.1328/1903. After the demise of Vai.Raghavalu Naidu, one of his son Govinda Naidu inherited the property and on his demise, his wife Poologa Ammal became the owner of the property. Poologa Ammal executed a Will dated 19.10.1994. After the demise of Poologa Ammal, the petitioner is entitled to get the property.

4. The grievance of the petitioner is that, insofar as the property extending 1.88 acres was purchased by Raghavalu Naidu in the year 1903 in which the petitioner claims that Poologammal alleged to have been grabbed the property by the accused persons by name Janardhanan and Srinivasan. Both sons of late Gopal Naidu, by creating a partition deed dated 12.08.1969 and



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based on the partition deed, sold the property to one T.V. Venkatraman vide sale deed dated 15.10.1992. This fact came to the knowledge of the petitioner, when he obtained encumbrance certificate after the demise of Poologammal, had bequeathed the property through her Will. Therefore, they give a complaint to Esplanade Police Station on 07.11.2019. Since no action was taken, a private complaint was lodged for the alleged offence under Sections 109,404,423,447,463,465,468,471,420,447 and 506(i) of IPC. The private complaint filed under Section 200 of Cr.P.C was taken up for consideration by the Chief Judicial Magistrate, Chennai. After causing notice to the accused persons and on examination of the documents, the Chief Judicial Magistrate, has observed that, the subject matter is purely civil in nature since the complainant and the accused persons are tracing their title through two different set of documents. Hence, the genuineness of the documents and title to be tested only by the Civil Court.

5. Regarding the other allegations of intimidation and abuse, the Court found the allegation of bereft of details and without date, time and place had dismissed the complaint observing that the complainant wants to convert the civil dispute into the criminal case.



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6. The petitioner being aggrieved had preferred the revision petition before II Additional Sessions Judge, City Civil Court, Chennai. After framing necessary points for consideration, had gone into the details of the documents relied on by the petitioner/complainant and the documents relied on by the accused persons and had observed that the petitioner, who claims his right through Poologammal had not filed any document for possession of the property that either Poologammal was in possession of the property or her husband was in possession and enjoyment of the property.

7. Contrarily, the accused persons, based on the partition deed, dated 12.08.1969, had taken possession of the property and been in continuous enjoyment of the property and infact, they have alienated part of the property. The petitioner herein wholly relying upon the entry in the encumbrance certificate, which reflects the purchase of the property by Raghavalu Naidu in the year 1903 and no other entry to reach the omission of other transactions was not recorded in the encumbrance. Therefore, II Additional Sessions Judge had rightly dismissed the revision stating that based on the partition deed of the year 1969, the accused have acted upon and been in possession and enjoyment of the



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property in all these years Poologammal through whom the petitioner claims right through her Will, has not objected the partition deed of the year 1969, till her last breath in the year 1996. Just because Poologammal had included the disputed property in her Will, it cannot be presumed, she is the owner of the property nor the petitioner can sustain the criminal complaint alleging forgery, cheating and other allied offences.

8. This Court, on perusing the materials placed by the petitioner and the finding of the II Additional Sessions Judge, City Civil Court, Chennai, find that the petitioner has no legs to stand. He had been agitating the illusory battle solely based on the Will purported to have been executed by Poologammal in his favour by including the property which even Poologammal had no right or title. This complaint is nothing but a malicious prosecution filed with ulterior intention of harassing the respondents. Hence, ***this Criminal Original Petition is dismissed as devoid of merits.***

08.11.2023

Index:yes/no

Speaking order/non speaking order

Neutral Citation:yes/no

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To:



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1.III Additional Sessions Judge, (FAC) II Additional Sessions Court at Chennai.

2.The Chief Metropolitan Magistrate, Chennai.

3.The Public Prosecutor, High Court, Madras.

Dr.G.JAYACHANDRAN, J.



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delivery Order made in
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