



Crl.O.P.(MD).No.9939 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25.09.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD)No.9939 of 2023

S.Arumairaj

.....Petitioner

Vs.

1.The Deputy Superintendent of Police,
O/o.Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Thoothukudi District.

2.The Inspector of Police,
Vigilance and Anti Corruption,
Thoothukudi District.

3.The District Collector,
Tuticorin District.

...Respondents

(R3 is *suo-motu* impleaded as per order of the Court, dated 08.06.2023, in Crl.O.P(MD)No.9939 of 2023 by KMSJ)

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to issue a direction to transfer the investigation to some other agency to conduct further enquiry on the complaint made by the Petitioner dated 05.04.2023 on the file of the 2nd Respondent within time stipulated by this Hon'ble Court.

For Petitioner : Mr.I.Pinaygash
For Respondents : Mr.T.Senthil Kumar,
Government Advocate(Crl.Side)



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ORDER

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This petition has been filed to transfer the investigation to some other agency to conduct further enquiry on the complaint made by the Petitioner dated 05.04.2023 on the file of the 2nd Respondent.

2. The petitioner is the residence of Keezhapparaipatti, Kurumalai Post, Kayathar Taluk, Tuticorin District. He is the District Secretary of Tamilaga Anaiththu Vivasayikal Sangam, Tuticorin District. He is also a Social worker and doing service for the needy people.

3. In the Melapparaippatti Village, a huge extent of 34 acres 57 cents of land is situated in the various Survey Nos.93/1, 91/5, 43/4, 46/7, 49/6, 92/1, 43/10, 30/10, 96/2, 110/4, 110/5 and 135/3, 104/8, 136/13, 108/2, 106/1, 107/1, 102/3, 10௭1/௮ and the same belongs to the Government. The said land was Government Sarvodaya Panchayath Land. Many people have alienated the said property without title with active connivance of the Government officials. Therefore, on 05.04.2023, he made a complaint to the first and second respondents to take necessary actions. The first and the second respondents did not take any action. Therefore, he filed the present petition seeking transfer the



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investigation to some other agency to conduct further enquiry on the complaint made by the Petitioner, dated 05.04.2023 on the file of the second Respondent.

4.The learned counsel for the petitioner submitted that the petitioner filed this writ petition to safe guard the interest of the Government property. There was unauthorised alienation of the Government property mentioned above without title by the private parties with the help of the Government officials. Therefore, the petitioner's complaint disclosed the cognizable offences to register the case or atleast to conduct preliminary enquiry, as per the procedure stated in the vigilance manual. But the second respondent did not take any action and therefore, he seeks for transfer of investigation.

5.After hearing the petitioner's side argument, the learned Additional Public Prosecutor submitted that his complaint dated 05.04.2023 was forwarded to the District Collector. This Court *suo motu* impleaded the said Collector in order to ascertain the submission of the learned Additional Public Prosecutor and directed the District Collector to submit the report. The District Collector submitted the report dated 22.06.2023. In the said report, the District Collector, stated that some of the officers are involved in the above transfer of fraudulent



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patta and hence, the disciplinary proceedings was initiated against the concurred officials. The sum and substance of the charge is as follows:

[illegible]

மாண்புமிகு பேரவைத் தலைவர்:

2/10/13



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6. Therefore, this Court directed the first respondent to conduct the enquiry.

The first respondent filed the status report dated 30.08.2023. The report in Para 11 to 18 are as follows:

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11) The above said Survey Numbers were entered in the name of the ancestors of that person in land survey registers maintained by the Office of Tahsildar concerned. Moreover, the above said persons having possession of the land in the Survey Nos. The above mentioned persons made a application to the concerned authority to issue the patta in their names. The VAO Tr.Kanagaraj and Zonal Deputy Tahsildar Tr.Thiraviyam has not verified the land holdings and records issued the patta No.1050 and 1051 to Tr.Muralidharan, Tr.Elangovan, Tr.Thangasamy, Tr.Ramasamy and Tr.Ramanulhan.

12) It is respectfully submitted that, said patta transfer order was set aside by the Revenue Divisional Officer, Kovilpatti through No.D.P.912/5023/2022 dated 09.05.2022. The patta holders Tr.Muralidharan and Tr.Ramasamy filed the review petition before the District Revenue Officer, Thoothukudi and the same was rejected by DRO, Thoothukudi through Na.Ka.No.96/19469/2022, dated 04.01.2023. The patta transfer order related to the patta No.1051 was cancelled and the land pertaining the above said patta Numbers were revoked to the Sarvodaya Panchayat. The review petition filed by the private individual regarding patta no.1051 was pending before the District Revenue Officer, Thoothukudi.

13) It is further submitted that, during the factual verification, I have gone through the documents relating to the above said survey


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Nos. and examined the witnesses. The encumbrance certificate pertaining this lands was in the name of Sarvodaya Panchayat. It was obtained by the Government through Dec No.930/1979 and 851/1980 of Sub-Registry Kadambar and Patta No.69. But, the land was possessed and enjoyed by the individuals such as Tr.Muralidharan, Tr.Elangovan, Tr.Thangusamy, Tr.Ramasamy and Tr.Ramanathan. The verification reveals that the 'A' register and SIR before UDR incorporate in the name of the private individuals. There is no prima facie material with strong supportive evidences available to impute the above said individuals for conspiracy to this allegation. The verification has not revealed that the above said individuals gave bribe to the public servants for this Patta transfer.

14) It is further submitted that, Tr.Thiraviam, Zonal Deputy Tahsildar and Tr.Kanagaraj, VAO stated that they verified the other patta transfer relating to the Land of Sarvodaya Panchayat. The materials collected during the verification also reveals that some of the private individuals already got the patta to the Sarvodaya Panchayat lands. The Patta pass book No.139 also reveals that the above said Survey Nos was in the name of the ancestors of Tr.Muralidharan, Tr.Elangovan, Tr.Thangusamy, Tr.Ramasamy and Tr.Ramanathan.

15) It is further submitted that, the records collected during the verification reveals that the public servant without verifying the


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Government documents and inspected the properties before issuing the Patta. Hence, the petition was forwarded to the District Collector on 27.04.2023. The Departmental Disciplinary Action is pending against the delinquent Tr.Thiraviam, Zonal Deputy Tahsildar and Tr.Kanagaraj, VAO for procedural violation.

16) It is further submitted that, Tr.Ramasamy one of the Patta holder filed the Writ Petition W.P(MD) No.15129/2023 before the Hon'ble Madras High Court of Madurai Bench to set aside the order of the Patta cancellation by District Revenue Officer, Thoothukudi district. The above said Writ Petition is pending before the Hon'ble Court.

17) It is further submitted that, the collected sources reveals that, the above said private individuals did not give any illegal gratification to the public servant for this patta transfer. The proof of demand for bribe by the public servant and it's acceptance by the official is essential for establishing the offence under the provision of Prevention of Corruption Act which relates to Public servants taking illegal gratification. In this present case there is no demand and acceptance of bribe by the Tr.Kanagaraj and Tr.Thiraviyam. There is no oral or documentary and other evidence such circumstantial evidence available to connect the above said revenue officials in corruption charge. >


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18] It is further submitted that, the collected sources reveals that the above said private individuals Tr.Muralidharan, Tr.Elangovan, Tr.Thangasamy, Tr.Ramasamy and Tr.Ramanathan did not give any illegal gratification to the public servant for this patta transfer.

7.This Court considered the above report and the instructions given by the District Collector.

8.Now, the disciplinary proceedings is pending against the officials and the preliminary enquiry report of the second respondent revealed that before UDR, In 'A' register and SLR report, the name of the private individuals also shown as owners. Therefore, at this stage, the prayer of the petitioner need not be considered.



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9. Therefore, this Court is inclined to dispose this Criminal Original Petition with liberty to the petitioner to approach the respondent if any incriminating material comes out in the conclusion of the disciplinary proceedings.

10. Accordingly, this Criminal Original Petition is disposed of.

25.09.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss

To

1. The Deputy Superintendent of Police,
O/o. Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Thoothukudi District.
2. The Inspector of Police,
Vigilance and Anti Corruption,
Thoothukudi District.
3. The District Collector,
Tuticorin District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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