



Crl.O.P.No.5654 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.5654 of 2022

and

Crl.M.P.No.3130 of 2022

V.Venkatapathy

... Petitioner

Versus

The Executive Magistrate cum
Revenue Divisional Officer,
Udumalpet,
Thiruppur Dt.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the order of respondent dated 04.03.2022 in Na.Ka.No.0340/2022/A2 and quash the same only in so far as it relates to the petitioner.



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For Petitioner : Mr.K.Selvaraj
For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the impugned proceedings in Na.Ka.No.0340/2022/A2 passed by the respondent.

2. Heard both sides.

3. The petitioner herein is the 1st petitioner in 'A' party in the impugned proceedings initiated by the respondent in Na.Ka.No.0340/2022/A2. According to the petitioner, he purchased 1/5th share of his vendor Loganathan. In fact, the said Loganathan was allotted 1/5th share as a legal heir of his mother Rukmani, who died intestate on 27.03.1996 leaving behind her two sons viz., M.Loganathan and Rajagopal and her three daughters viz., Muthammal, Neelavathi and Krishnaveni.



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Now, one of son-in-law of Rukmani viz., Radhakrishnan, who is husband of Krishnaveni created a fabricated settlement deed, thereby settling the entire property of Rukmani consisting of 41 acres and also there was a similar document of settlement deed from other two daughters of Rukmani, thereby they have created a sale deed dated 31.12.2021 in favour of a firm viz., M/s.Safvolt Switchgears Private Limited and one Vijayakumar, who is owner of the said Private Limited and they are doing business of solar panel. However, including the share of 'A' party, the document was created by the said Radhakrishnan. Therefore, the dispute arose between the parties. Accordingly, it was referred to the respondent, who conducted the proceedings under Sec.107 of Cr.P.C. and passed a final order on 04.03.2022, wherein the respondent made an observation that already there is a dispute with regard to division of property and also gave a direction directing the 'A' party not to make any hindrance for enjoyment of property. Aggrieved over the said findings, the petitioner/'A' party had filed a suit in O.S.No.101 of 2022 and the same is pending. Now, he filed this petition to quash the proceedings initiated by the respondent.



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4. According to the petitioner, he purchased 1/5th share of his vendor Loganathan, who derived the said title from his mother Rukmani. Admittedly, the said Rukmani Ammal had two sons and three daughters and one of son-in-law viz., Radhakrishnan, who is arrayed as 'B' party created a sale deed in favour of M/s. Safvolt Switchgears Pvt. Ltd., but he is not a direct legal heir, however he obtained the said document from other two daughters. Moreover, no one appeared before the respondent on the side of 'B' party and there was no document produced to show that the said Rukmani died intestate or she executed any settlement deed nor produced any document to show that enquiry was conducted for the issuance of patta. But without any such document, the observation made by the respondent as such is erroneous one. Admittedly, as on date the suit in O.S.No. 101 of 2022 was filed by this petitioner in respect of his purchase before the District Munsif, Tiruppur. Therefore, the order passed by the respondent in respect of title of property as such is erroneous one and the same is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the impugned proceedings passed by the



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respondent in Na.Ka.No.0340/2022/A2 dated 04.03.2022 is quashed. All

the parties are entitled to work out their remedy before the trial court.

Consequently, connected Criminal Miscellaneous Petition is closed.

26.02.2024

Index: Yes/No

Internet: Yes/No

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To

1. The Executive Magistrate cum
Revenue Divisional Officer,
Udumalpet,
Thiruppur Dt.
2. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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