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Crl.R.C.No.1668 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.1668 of 2023
and Crl.M.P.No.15738 of 2023

P.Palani

... Petitioner

-Vs-

1.The Sub Divisional Magistrate-cum-Revenue Divisional Officer,
Arni.

2.State Represented by
Inspector of Police,
Arni Rural Police Station,
Arni.

3.Ramesh

4.Raghupathi

5.Kuppusamy

6.Palani

7.Rajasekar

8.Arasu

... Respondents

Prayer: Criminal Revision Case filed under Section 397(1) r/w 401 of Code of Criminal Procedure, praying to set aside the final order passed in M.C.No.63/2023(A3) dated 23.08.2023 on the file of the 1st respondent.

For Petitioner : Mr.R.Natarajan

For Respondents : Mr.A.Gopinath

Government Advocate (Crl.Side) [R1 & R2]



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Mr.D.Thirumurthy [R3 & R4]

Mr.Dharani.K [R8]

ORDER

This Criminal Revision Case has been filed by the petitioner seeking to set aside the passed by the 1st respondent made in M.C.No.63/2023(A3) dated 23.08.2023.

2. The case of the petitioner is that, he is owner of the property in new S.Nos.150/7A and 150/7B, Paiyur Village, Arani Taluk, Thiruvannamalai District, plots were developed in the name of one Arasu in which, 40 families have purchased the property and residing for more than 20 years. This property was originally owned by the 8th respondent/Arasu, who mortgaged the property and availed loan from Indian Bank, Arani branch in the year, 2007. Since the loan became NPA, the property was brought to sale by way of public auction by the Bank under SARFAESI proceedings and one Moorthy purchased the property in the auction. The said Moorthy executed a sale deed in favour of one Ravi vide Document No.8380/2011 for 10294 sq.ft. The said Ravi further conveyed to his wife Gomathy vide Document No.613/2022 by way of



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settlement. The petitioner herein purchased 6794 sq.ft. from the said Gomathy by Document No.5123/22 for 3534 sq.ft. and Document No.7193/2022 for 3260 sq.ft. When the petitioner attempted to put up a construction and stacked bricks for the same, the residents of the said property created law and order issue alleging that the property belongs to the petitioner was used as road by them, thereby they landed before the 1st respondent u/s 145 Cr.P.C. in M.C.No.63/2023(A3) and the 1st respondent has passed the impugned order dated 23.08.2023 as against the petitioner. Challenging the same, the petitioner has preferred the present revision before this court.

3. Though very many grounds have been raised in this revision, learned counsel for the petitioner submitted that, it would suffice, if this court permits the petitioner to file civil suit as against the persons who are disputing the property owned by the petitioner and if such a suit is filed, this court may direct the civil court to decide the civil suit independently without being influenced by the observations made in the impugned order and pass appropriate orders.

4. Learned Government Advocate (Crl.Side) appearing for the



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respondents 1 and 2 submitted that in the previous writ petition filed by the petitioner in W.P.No.4580 of 2023, he had given only the survey number and not the extent of the land. According to the 1st respondent, the extent of the land which the petitioner now claims to have purchased by way of two documents in Document No.5123/22 of 3534 sq.ft. and Document No.7193/22 of 3260 sq.ft. which totally comes to 6794 sq.ft. of which 5400 sq.ft. is the existing road used by the residents and only balance of the land is with the petitioner. However, he approached this court seeking service connection for the building located in both survey numbers and no such building is in existence. Suppressing the same, he had obtained an order from this court for issuing electricity service connection in his favour, which is wholly unsustainable. Accordingly, he prays for dismissal of the revision.

5. Learned counsel appearing for the 8th respondent submitted that, the petitioner's vendor Gomathy had approached this court for issuance of patta in her favour, however, her request was refused. Accordingly, he prays for dismissal of the revision.



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6. Heard learned counsel for the petitioner, learned Government Advocate (Crl.Side) appearing for the respondents 1 and 2 and the learned counsel appearing for the 8th respondent and perused the materials available on record.

7. Admittedly, the disputed property was originally owned by the 8th respondent and he availed a loan from the Indian Bank, Arani Branch. However, he had not paid the said loan amount, thereby the said bank had initiated SURFAESI proceedings and one Moorthy purchased the property in the auction, who in turn executed a sale deed in favour of one Ravi and the said Ravi conveyed the said property to his wife Gomathy and from her, the petitioner purchased 6794 sq.ft. vide Document Nos.5123/2022 and 7193/2022. A perusal of the impugned order reveals that there is a civil dispute in between the petitioner and the private respondents with regard to the property in S.No.150/7. In the said property, there is a road which was used by the residents for the past 20 years. Therefore, in order avoid the law and order issue, the 1st respondent has passed the impugned order dated 23.08.2023 allowing the residents to use the road continuously situated in the disputed property, which cannot



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be said to be perverse, illegal or arbitrary.

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8. Accordingly, the Criminal Revision Case is dismissed. However, the petitioner is at liberty to file a civil suit before the competent civil court and if such a civil suit is filed by the petitioner, the civil court is directed to pass appropriate orders independently without being influenced by any of the observations made in the impugned order. Further, the impugned order passed by the 1st respondent is subject to the result of the civil suit to be filed by the petitioner. Consequently, the connected criminal miscellaneous petition is closed.

24.07.2024

Index : Yes/No
Speaking order / Non-speaking order
NCC : Yes/No
sp



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To

- 1.The Sub Divisional Magistrate-cum-Revenue Divisional Officer,
Arni.
- 2.The Inspector of Police,
Arni Rural Police Station,
Arni.



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M.DHANDAPANI, J.

sp

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