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CrI.O.P.(MD)No.1037 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.01.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.1037 of 2022

and

CrI.M.P.(MD).Nos.739 & 740 of 2022

P.Soundararajan

... Petitioner/Accused No.2

Vs.

1.State represented by
the Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
(Crime No.302 of 2014)

2.M.Lakshmanan

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.10 of 2017 on the file of the Special Court for Land Grabbing Cases, Tirunelveli in Crime No.302 of 2014 on the file of the first respondent Police and quash the same as illegal in respect of the petitioner concerned.

For petitioner

: Mr.Gandhi
Senior Counsel
for Mr.P.Mahendran

For R-1

: Mr.S.Manikandan,
Government Advocate
(Criminal Side)



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CrI.O.P.(MD)No.1037 of 2022

For R-2

: Mr.R.Anand

ORDER

This petition has been filed seeking to quash the case in C.C.No.10 of 2017 on the file of the Special Court for Land Grabbing Cases, Tirunelveli.

2. The learned counsel appearing for the petitioner would submit that the entire disputed property situated in Survey Nos.853 and 854 to an extent of 62 cents were originally belonged to one Kandasamy Naidu and his wife and after their death, the same were inherited by their five daughters viz., Muniyammal, Sundari, Seethalakshmi, Anusuya and Ramalakshmi and out of five, the said Anusuya and Ramalakshmi died. After the death of Anusuya, her husband viz., Sankaran sold the property on 11.11.2013 for valuable sale consideration and thereafter, a rectification deed was presented for rectifying the survey Number from 855 to Survey Nos.853 and 854 on 10.02.2014. In the meanwhile, the second respondent / *defacto* complainant purchased four shares from the respective legal heirs and thereafter, they came to know that the petitioner executed the sale deed without any title and he also filed a rectification deed, aggrieved, the second respondent made a complaint



before the respondent Police and the respondent Police conducted the investigation and filed a charge sheet before the concerned Court. Challenging the same, the present petition has been filed before this Court.

3. The learned counsel appearing for the petitioner would submit that for the very same dispute already the petitioner filed a suit for declaration and for permanent injunction in O.S.No.204 of 2021 on the file of the learned Principal Sub Judge, Tenkasi and the trial Court decreed the suit in favour of the petitioner on 19.08.2017, against which, the second respondent / *defacto* complainant preferred an appeal in A.S.No.5 of 2018 on the file of the learned Additional District and Sessions Judge, Fast Track Court, Tenkasi and the same was dismissed on 28.09.2021 and as on date, there is no appeal before this Court by way of Second Appeal. Since the same issue which was ended in favour of the petitioner by both the Courts, there is no need to file a complaint against the petitioner. Accordingly, he prays for allowing this petition.

4. The learned counsel appearing for the second respondent would submit that already the second respondent has filed a Second Appeal before this Court and the same is pending in S.A.(MD).No.270 of



2022. Hence, this Court may grant liberty to the second respondent / *defacto* complainant to canvass all those points in the Second Appeal.

5. In view of the above, for the very same property dispute, the petitioner already approached the Civil Court in O.S.No.204 of 2014 and the same was ended in his favour and subsequently, the respondent / *defacto* complainant preferred an appeal before the Lower Appellate Court and the same was dismissed. In view of the categorical finding rendered by the competent Courts and also, as the matter is pending before this Court in S.A.(MD).No.270 of 2022 for the very same issue, the same issue cannot be adjudicated before the Criminal Court which is non-est in the eye of law.

6. At this juncture, the learned counsel appearing for the petitioner would submit that, originally, at the time of filing, the matter was pending on the file of the Special Court for Land Grabbing Cases, Tirunelveli and now, it is transferred and re-numbered as C.C.No.642 of 2023 on the file of the learned Judicial Magistrate, Tenkasi.

7. In view of the above, the case in C.C.No.642 of 2023 on the file of the learned Judicial Magistrate, Tenkasi, is quashed and this



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Criminal Original Petition is allowed accordingly. Consequently,
connected miscellaneous petitions are closed.

31.01.2024

Index : Yes/No
Internet : Yes/No
TSG

To

- 1.The Special Court for Land Grabbing Cases, Tirunelveli.
- 2.The Judicial Magistrate, Tenkasi.
- 2.The Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

TSG

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