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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED:25.07.2016  
CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

Writ Petition (MD). No.12483 of 2016  
and  
W.M.P. (MD).Nos.9446 and 9447 of 2016

K.GURUCHANDRAN

... Petitioner

Vs.

- 1 THE INSPECTOR GENERAL OF REGISTRATION  
O/O. THE INSPECTOR GENERAL OF REGISTRATION  
CHENNAI- 28.
- 2 THE DISTRICT COLLECTOR  
SIVAGANGAI DISTRICT,  
SIVAGANGAI.
- 3 THE TAHSILDAR  
KARAIKUDI, SIVAGANGAI DISTRICT
- 4 THE JOINT II SUB REGISTRAR  
KARAIKUDI, SIVAGANGAI DISTRICT
- 5 THE SPECIAL OFFICER  
THE TAMIL NADU BOOMIDHAN BOARD, CHENNAI-5. ... Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings O.Mu.P2-11570-2015 dated 07.10.2015 and the consequential order passed by the 4th respondent in his proceedings in பதிவு, மறுப்பு, எண். 7/2016 dated 20.06.2016 and quash the same as void and illegal and consequentially to direct the 4th respondent to register the sale deed dated 20.06.2016.

For Petitioner

:Mr.M.Mohamed Imran  
for M/s.Ajmal Associates



## O R D E R

Heard both sides.

2. By consent, the main writ petition itself is taken up for final disposal.

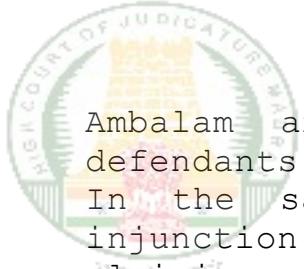
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3. According to the petitioner, the land in Sy.No.138/1 measuring an extent of 1089 sq.ft in Amaravathi Village, Amaravathi Pudur Group, Karaikudi, Joint II Sub Registrar, Karaikudi Registration District, was owned by one Mr.Mariappan, who purchased the same by way of a registered sale deed dated 28.10.2014 on the file of the 4<sup>th</sup> respondent's office. As a matter of fact, he purchased the property through a sale deed dated 20.06.2016 and the same was presented for registration before the 4<sup>th</sup> respondent, who in turn by virtue of the impugned proceedings பதிவு, மறுப்பு, எண்.7/2016, dated 20.06.2016 had refused to register the sale deed, based on the reason, as per the proceedings of the third respondent/Tahsildar, Karaikudi, dated 07.10.2015, instructions were issued preventing the 4<sup>th</sup> respondent/Joint II Sub Registrar, Karaikudi, Sivagangai District from registering any document in respect of Sy.No.138.

4. As a matter of fact, the third respondent/Tahsildar, Karaikudi, Sivagangai District, by means of impugned proceedings dated 07.10.2015 directed the fourth respondent/ Joint II Sub Registrar, Karaikudi, Sivagangai District, not to register any document in regard to Sy.No.138, as the properties which covered under Sy.No.138 stand in the name of 'Boomidhan Board', as per Village Records.

5. The stand of the petitioner is that his vendor one Mariappan had purchased the property in question from one Thiruselvam, who in turn had purchased the same from one Rakkappan Ambalam, S/o.Ramasamy Ambalam, through his power agent K.V.Sundaram vide document No.3582/2002, dated 08.11.2002 on the file of the 4<sup>th</sup> respondent. In fact, the said Rakkappan Ambalam had purchased 10 acres 93 cents in the aforesaid Sy.No.138 from its original owner R.M.Karuppan Chettiar through a registered sale deed dated 19.09.1966 and one Nachiappan Ambalam had purchased the remaining extent of 1 acre in the said Sy.No.138 through another registered sale deed. Thus, the whole extent of 11 acres and 93 cents comprised in the said Sy.No.138 belonged to the said Rakkappan Ambalam, Nachiappan Ambalam and they were issued pattas for the same. In reality, the said Rakkappan Ambalam had plotted a portion of his land in the said Survey number into 91 plots, after obtaining necessary approval and sold them to enormous persons and the petitioner's vendor is also one of the purchasers.

<https://hcservices.ecourts.gov.in/hcservices/> version of the petitioner is that one Aukasam and 19 others filed a civil suit in O.S.No.448/1967 on the file of the Learned District Munsif, Devakottai against the said Rakkappan



Ambalam and Nachiappan Ambalam showing them as 1<sup>st</sup> and 2<sup>nd</sup> defendants and the State of Tamil Nadu was shown as 7<sup>th</sup> defendant. In the said suit, the relief of declaration and permanent injunction in respect of the aforesaid lands in Sy.No.138, claiming as if the said properties owned by Boodhan Yagna Board having been donated by original owner Somanathan Chettiar was sought for and that the Boodhan Yagna Board had granted the said property to the plaintiffs, who claimed to be the grantees. In the suit, it was contended that the plaintiffs and others were owners and possessors of the said properties as 'Grantees' and that the defendants, on 27.09.1967, obstructed the plaintiffs from reclaiming the said property thereby claiming title and possession. Ultimately, the suit was disposed of on 30.11.1979 by the trial court, in and by which, the suit was dismissed on the ground that the said Sy.No.138 belonged to the said R.M.Karuppan Chettiar, as claimed by the defendants and not to the said Somanathan Chettiar, as alleged by the plaintiffs and the gift effected by the said Somanathan Chettiar in favour of the 'Boodhan Yagna Board' is void.

7. The primordial plea projected on the side of the petitioner is that the judgment passed by the trial court in O.S.No.448 of 1967, dated 30.11.1979 clearly points out that the 'Boomidhan Board' does not have any right over the property in question and the stand taken in the impugned order that the property in question belongs to 'Boomidhan Board' is factually an incorrect and perverse one.

8. In effect, the core contention advanced on behalf of the petitioner is that the judgment dated 30.11.1979, passed in O.S.No.448 of 1967, by the trial Court is conclusive, final and binding between the inter se parties under Section 43 of the Indian Evidence Act, 1872. Moreover, no appeal had been preferred against the judgment dated 30.11.1979 made in O.S.No.448/1967 on the file of the Learned District Munsif, Devakottai.

9. At this stage, the Learned Counsel for the Petitioner brings it to the notice of this Court that only on the basis of the judgment dated 30.11.1979 made in O.S.No.448/1967, the said Sy.No.138 was sub-divided by the Revenue Authorities as Sy.No.138/1 and 138/2 and Sy.No.138/1 is measuring an extent of 4.42.5 hectares and it was registered in favour of the said Rakkappan Ambalam in Patta No.373. The specific case of the petitioner is that from that time onwards, patta for the aforesaid Sy.No.138 and its sub-divisions were continuously standing in the name of Rakkappan Ambalam and Nachiappan Ambalam and their subsequent vendees and these facts are well-known to the respondent Nos.2, 3, 5 and 6 and in spite of the same, they

<https://hccourtsonline.in/cases/> Sy.No.138 in Amaravathi Village is a Boodhan land, quite contrary to the judgment and decree made in O.S.No.448/1967, dated 30.11.1979.



10. That apart, the aforesaid facts were informed to the third respondent/Tahsildar, Karaikudi, Sivagangai District, who in turn, by his proceedings dated 27.12.2013 had submitted a report to the 2<sup>nd</sup> respondent/District Collector, Sivagangai and the factum of the judgment of the trial court was also informed to the 2<sup>nd</sup> respondent/District Collector. In this regard, the grievance of the petitioner is that in spite of the same, the impugned order in Memo No.19/15, dated 14.10.2015 was passed by the 3<sup>rd</sup> respondent/Tahsildar, Karaikudi, Sivagangai District, addressed to the 4<sup>th</sup> respondent/Joint-II Sub Registrar, Karaikudi, Sivagangai District inter alia stating that '.... the aforesaid land was recorded in the Registers of the Boomidhan Board and presently, not to change the real characteristic of the land, actions had been taken and the work in this regard is pending and as such, in the subject matter in issue, registering of documents not to be undertaken.'

11. Per contra, it is the submission of the Learned Additional Government Pleader that the first respondent/Inspector General of Registration, Chennai, through his Letter Bearing No.51701/C1/2014 dated 15.04.2015 had caused distribution of list of Boodhan lands in various districts received from the Commissioner of Land Reforms through D.O.No.K1/607/2010/(B.B), dated 18.03.2015. Furthermore, it is represented on behalf of the respondents that the instant Sy.No.138 of Village also finds a place in the list of 'Boodhan lands' in Sivagangain District, sent by the Commissioner of Land Reforms.

12. Besides the above, the plea of the respondent Nos.1 to 5 is that the 3<sup>rd</sup> respondent/Tahsildar, Karaikudi, Sivagangai District in his Letter bearing No.Dis.No.B2-11570-2015, dated 06.10.2015 had informed the 4<sup>th</sup> respondent/ Joint II Sub Registrar, Karaikudi, Sivagangai District that according to the Village Accounts, the land in Sy.No.138 of Amaravathi Village in patta No.373, standing in the name of 'Boomidhan Board, Chennai' was sub-divided inasmuch as the field stands in the name of 'Boomidhan Board' and action is being taken to see that this status is not altered and the same is pending. In fact, the third respondent/Tahsildar, Karaikudi, Sivagangai District had required the 4<sup>th</sup> respondent/ Joint II Sub Registrar, Karaikudi, Sivagangai District not to register the documents pertaining to the land in Sy.No.138, being the subject matter in issue.

13. In short, on behalf of the respondents 1 to 5, it is canvassed before this Court that the 4<sup>th</sup> respondent/ Joint II Sub Registrar, Karaikudi, Sivagangai District, being a Registering Officer, is to consider the ban order made by the Revenue Department. The ban order casts a cloud of suspicion over the right and ownership of the person executing the document. Further in Circular No.18339/C1/2012, dated 25.04.2012, issued with an



intent to curb the menace of fraudulent registrations, the first respondent/Inspector General of Registration, Chennai had instructed the registering officers to verify the records to satisfy themselves about the right of the executant of the document brought for registration. Therefore, the ban of registration on the basis of land in question being held in Village Accounts as 'Bhoodhan Board' land, has to be considered as a valid objection in respect of the title and ownership of the petitioner.

14. To lend his support to the contention that the 3<sup>rd</sup> respondent/Tahsildar, Karaikudi, Sivagangai District, in Law, cannot pass the impugned order dated 14.10.2015 in Memo No.19/15, as there is no provision either under the Indian Registration Act, 1908 or under the Indian Stamp Act, 1899, refusing permission to register the document in the subject matter in issue, the Learned Counsel for the Petitioner cites a Division Bench order of this Court between **Thiyagavalli Panchayathai Serntha Nochikkadu Grama Vivasayigal Pathukappu Matrum Makkal Pothunala Sangam, rep. By its Secretary and the Chairman, Tamil Nadu Electricity Board, Chennai-2 and 3 others reported in 2006-3-L.W.766**, whereby and whereunder at special page No.771, at paragraph Nos.11 and 12, it is observed as follows:

"11. Taking note of the categorical stand of the third respondent in the impugned proceedings, we are at a loss to understand as to how and under what provision of law such a prohibition came to be imposed by the respondents restraining any individual land owners in the above two villages from transferring their lands either by way of sale or by any other mode to any third party other than "M/s.Cuddalore Power Company Limited" and refuse to register such documents.

12.Under Article 300-A of the Constitution, a right of a citizen to own a property and retain the same has been well protected and such right cannot be deprived of except by authority of law."

15. He also relies on a decision of this Court between **T.Sundar Vs The Sub Registrar, Office of the Sub-Registrar, Palayamkottai, Tirunelveli and another**, reported in **2010 (2) CWC 159 at page 159**, at special page 163, wherein, at paragraph No.11, it is observed as under:

"11.Next, it was pointed out by the learned Counsel for the Petitioners that a communication has been sent by the Second Respondent to the First Respondent not to ascertain any sale deed in respect of the said Survey Numbers. The Hon'ble Division Bench of



this Court had decided the scope of such direction in the nature of prohibition and whether the same could be issued by either the Government or any other body to the said registration of assurance directing him not to entertain any document. In **Thiyagavalli Panchayathai Serantha Nochikkadu Grama Vivasayigal Pathukappu Matrum Makkal Pothunala Sangam, rep. By its Secretary and the Chairman, Tamil Nadu Electricity Board, Chennai-2 and 3 others, 2008 (3) LW 766**, the Hon'ble Division Bench of this Court held that there is no provision under the statute where the State Government or the respondents therein can validly issue any directions refusing to register any document for which registration is permissible under the provisions of the Act."

16. The Learned Counsel for the Petitioner refers to another decision of this Court between **M.Singaravelu Vs. The District Registrar, Karur Registration Department, Karur and two others**, reported in **2015-5-L.W.173** at special Page Nos.174 and 175, wherein, at paragraph Nos.7 to 9, it is observed and held as under:

"7. The issue involved in this Writ Petition is not res integra. A close reading of the Rule 55 would show that the Registering Authority is bound to consider the objection only on the ground which is stated in the said Rule. Rule 55 does not provide enquiry by the Registering Officer with regard to the right and ownership of the seller. Thus, the authority concerned are bound to act only in accordance with Act and Rules framed thereunder. Time and again, this Court as well as the Supreme Court has held that the Registering authority has no power to refuse to register the documents unless it is prohibited by the competent Civil Court. Admittedly, in the case on hand, there are suits and counter suits between the parties to establish their rights. Though the rival claimants have rightly instituted suits, they have not obtained any interim order in their favour so as to restraining the second respondent herein from the registering the documents in question. In the absence of the said interim order, the second respondent cannot refuse the documents on the strength of the instruction issued by the third respondent, namely, the Inspector, Anti-land grabbing Special Cell, Karur. Therefore, the reason assigned by the second respondent fell through.



8. Further, the Hon'ble Supreme Court has made it clear that the Registering authority cannot refuse to register the document unless they demonstrate that registration of document would be contrary to public policy or in violation of applicable law. Such is not the case on hand here. Therefore, when the Registering Authority itself has no power to refuse to register the document, I have no hesitation to hold that the third respondent cannot prevent the second respondent from registering the documents presented by the petitioner in any manner. Therefore, the order impugned in this Writ Petition is liable to be set aside.

9. In the result, the order impugned dated 13.12.2013 stands set aside and consequently, this Writ Petition is allowed as prayed for. Further, the second respondent is directed to register the documents of the petitioner in accordance with law. No costs. Consequently, connected miscellaneous petition is closed."

17. At this stage, it is to be borne in mind that Rule 55 of the Registration Rules, (approved by the state Government under Section 69 of the Registration Act), reads as follows:

"55. It forms no part of a registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he is bound to consider objections raised on any of the grounds stated below:-

(a) that the parties appearing or about to appear before him are not the persons they profess to be;

(b) that the document is forged;

(c) that the person appearing as a representative, assign or agent, has no right to appear in that capacity;

(d) that the executing party is not really dead, as alleged by the party applying for registration; or

(e) that the executing party is a minor or an idiot or a lunatic."



18. Furthermore, Section 22-A of the Registration Act, 1908 clearly enjoins that the 'State Government may by notification in the Tamil Nadu Government Gazette declare that registration of any document or class of documents is opposed to public policy and notwithstanding anything contained in the Act, the registering officer can refuse to register any document to which a notification issued under sub-section (1) is applicable. No doubt, the said provision was inserted through an amendment, which came into effect from 28<sup>th</sup> August, 1997. Applying the said provision, a Government Order in G.O.Ms.150, Commercial Taxes, dated 22.09.2000 was issued. In the said notification, the documents pertaining to conveyance of properties belonging to the Government, local authorities, religious institutions or conveyance of properties assigned to or held by the Tamil Nadu State Government Boodan Yagna Board and the Tamil Nadu Wakf Board have been declared as documents opposed to public policy. As such, it was notified that no registration of any document with reference to those properties can be pressed into service.

19. In this connection, it may not be out of place for this Court to make a significant mention about the decision of the Honourable Supreme Court in **Bishambhar Dayal Chandra Mohan and Others V. State of Uttar Pradesh and Others**, reported in (1982) 1 SCC 39, wherein, at paragraph Nos.27 and 41, it is observed as under:

"27. The quintessence of our Constitution is the rule of law. The State or its executive officers cannot interfere with the rights of others unless they can point to some specific rule of law which authorizes their acts. In State of M.P V. Thakur Bharat Singh, the Court repelled the contention that by virtue of Article 162, the State or its officers may, in the exercise of executive authority, without any legislation in support thereof, infringe the rights of citizens merely because the legislature of the State has power to legislate in regard to the subject on which the executive order is issued. It was observed:

Every act done by the Government or by its officers must, if it is to operate to the prejudice of any person, be supported by some legislative authority.

The same principle was reiterated by the Court in Satwant Singh Sawhney V. Dr.Ramarathnam, Assistant Passport Officer, Government of India, New Delhi and Smt.Indira Nehru Gandhi Vs. Raj Narain.

<https://hcservices.ecourts.gov.in/hcservices/> There still remains the question whether the seizure of wheat amounts to deprivation of



property without the authority of law. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State Government cannot while taking recourse to be executive power of the State under Article 162, deprive a person of his property. Such power can be exercised only by authority of law and not by a mere executive fiat or order. Article 162, as is clear from the opening words, is subject to other provisions of the Constitution. It is, therefore, necessarily subject to Article 300-A. The word "law" in the context of Article-300-A must mean an Act of Parliament or of a State Legislature, a rule, or a statutory order, having the force of law, that is positive or State-Made law. The decisions in Wazir Chand V. State of H.P and Bishan Das V. State of Punjab are an authority for the proposition that an illegal seizure amounts to deprivation of property without the authority of law."

20. As far as the present case is concerned, one Aakasam and 19 others as plaintiffs filed a suit in O.S.No.448 of 1967 against one Rakkappan Ambalam and 6 others (the 7<sup>th</sup> defendant being the State of Tamil Nadu represented by the District Collector of Ramanathapuram, Madurai) on the file of the trial Court and after contest, a judgment was delivered on 30.11.1979, whereby and whereunder, for the 5<sup>th</sup> issue viz., "Whether the suit lands had been gifted to each of the plaintiffs in distinct portion?", it was categorically held that all the grants obtained by the plaintiffs from the Bhoodan Yagna Board are not valid and that the plaintiffs have not acquired distinct or any portion of the suit property and ultimately the suit came to be dismissed without costs. Even in respect of issue No.3 viz., "Whether there was valid gift by the said Somanathan Chettiar to Boodan and whether the said declaration of gift related to the suit property?", it was observed by the trial Court inter alia to the effect as under:

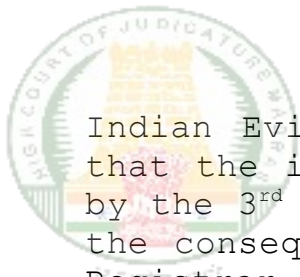
"....So, in the present case, the plaintiffs who are relying upon the gift executed by Somanathan Chettiar in favour of Boodan Yagna Board are bound to prove that Somanathan Chettiar had valid title over the property donated by him to the said Board. Exs.A-1 to A-19 are the deeds of grant or land by Tamil Nadu Boodan Yagna Board to the plaintiffs dated 04.02.1964. Exs.A-33 to A-40 are the kist receipts dated 11-10-67 issued in favour of the plaintiffs and the 3rd defendant. Ex.A-41 is registration copy of order of the Deputy Commissioner of Karaikudi conferring the grant of land. The above documents produced by the plaintiffs are to prove only the grants obtained by



them from the Boodan Yagna Board and the confirmation of the grant of land by the Deputy Tahsildar, Karaikudi. There is no piece of document on the side of the plaintiffs to prove the title of AL.AR.RM.V.Somanathan Chettiar, or that of the member of A.M.Family or that of M.L.R.Renganathan Chettiar. Ex.A.1 cannot in any way prove the above alleged vendors. The mere oral evidence of P.Ws.1 and 2 cannot prove the alleged title of the said Somanathan Chettiar or that of the alleged earlier owners in respect of the suit property. Since the plaintiffs are not able to prove the title of the said vendors, the gift made by Somanathan Chettiar under Ex.B-8 is a void document and even though Somanathan Chettiar made a declaration under Section 16(1) (a) of the Madras Boodan Yagna Act 25 of 1958, that the said declaration was duly published in the Fort Saint George Gazette 1961 as the provisions of the said Act and that the Tahsildar in due course confirmed the said declaration under Section C-14 of the said Tahsildar was also published in the Ramanathapuram District Gazette, the above procedures cannot bind the contesting defendants 1 and 2 in respect of the void gift made by Somanathan Chettiar to the Boodan Yagna Board. As per the authority 86 Law Weekly 218, if the gift is a void one, the real owner is not bound to object to the same and he need not file any suit in respect of the said void gift. So in as much as the gift in question by Somanathan Chettiar to Bhoodan Yagna Board is a void one, the failure of the defendants 1 and 2 to raise any objection or to file any suit against the said procedures adopted by the Boodan Yagna Board and by the Tahsildar under the Act cannot in any way prove the claims of the plaintiffs in the present suit.

21. Admittedly, the judgment dated 30.11.1979 made in O.S.No.448 of 1967 passed by the Learned District Munsif, Devakottai has become final, conclusive and binding between the parties inter se. Also that the Government of Tamil Nadu is a party to the litigation in the concluded suit in O.S.No.448 of 1967. As such, the judgment and decree dated 30.11.1979 in O.S.No.448 of 1967 passed by the trial court is binding on the Government of Tamil Nadu, in the considered opinion of this Court.

22. Be that as it may, in the light of the detailed qualitative and quantitative discussions and in view of the fact  
<https://hds.ces.ecm.gov.in/hdsqms>  
of 1967, passed by the trial court, has become final, conclusive and binding between the parties inter se, as per Section 43 of the



Indian Evidence Act, 1872, this Court is of the considered view that the impugned order dated 14.10.2015 in Memo No.19/15, issued by the 3<sup>rd</sup> respondent/Tahsildar, Karaikudi, Sivagangai District and the consequential order passed by the 4<sup>th</sup> respondent/Joint II Sub-Registrar, Karaikudi, Sivagangai District, dated 20.06.2016, refusing to register the document of the petitioner, in the subject matter in issue, are not valid in the eye of Law. As such, this Court, to secure the ends of Justice, interferes with the said orders, dated 14.10.2015 of the third respondent and 20.06.2016 of the fourth respondent and set aside the same. Consequently, the writ petition succeeds.

23. In the result, the writ petition is allowed, leaving the parties to bear their own costs. The impugned orders dated 14.10.2015 of the third respondent/ Tahsildar, Karaikudi, Sivagangai District and the consequential order, dated 20.06.2016, passed by the fourth respondent/ Joint II Sub-Registrar, Karaikudi, Sivagangai District, are set aside by this Court for the reasons assigned in this writ petition.

24. In view of the fact that this Court has allowed the present writ petition, as a logical corollary, the 4<sup>th</sup> respondent/ Joint II Sub-Registrar, Karaikudi, Sivagangai District is directed to register the document presented by the petitioner for registration pertaining to the land in Sy.No.138/1 of Amaravathi Village, Amaravathi Pudur Group, Karaikudi, if such document(s) satisfy the conditions laid down under the Registration Act or any other enactments governing such registration. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Cs I)

/True copy/

Sub Assistant Registrar

To

- 1 THE INSPECTOR GENERAL OF REGISTRATION  
O/O. THE INSPECTOR GENERAL OF REGISTRATION  
CHENNAI- 28.
- 2 THE DISTRICT COLLECTOR  
SIVAGANGAI DISTRICT,  
SIVAGANGAI.
- 3 THE TAHSILDAR  
KARAIKUDI, SIVAGANGAI DISTRICT



4 THE JOINT II SUB REGISTRAR  
KARAIKUDI, SIVAGANGAI DISTRICT

5 THE SPECIAL OFFICER  
THE TAMIL NADU BOOMIDHAN BOARD,  
CHENNAI-5.

+1cc to M/s.Ajmal Associates, Advocate SR.No.39343/16  
+1cc to special Government Pleader Sr.No.39419

VS  
sm:KBM:04.08.2016:12P/8C

Writ Petition (MD).No.12483 of 2016

25.07.2016