

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2017

CORAM

The Honourable MR. JUSTICE M.DURAISWAMY

W.P.No.5659 of 2017

M.Esak Sahib

...Petitioner

v.

- 1 The Government of Tamil Nadu
Rep. by its Secretary to the Revenue
Fort St. George Chennai 600 009
- 2 The Collector
Office of the Collectorate of Tamilnadu
Thiruvannamalai District.
- 3 Revenue Divisional Officer
Office of the Revenue Division Office
Polur Taluk
Thiruvannamalai District.
- 4 Tahsildar
Office of the Tahsildar, Polur
Polur Taluk
Tiruvannamalai District.
- 5 The Chief Executive Officer
Tamilnadu Wakf Board
No.3, Santhome High Road
Chennai 600 004

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the 4th respondent to comply the communication of the learned District Munsif, Polur vide VDOV NO/303 of 2016, dated 30.12.2016 to handover the possession of the property to an extent of 83 cent situated in S.No.53 , kangranandal Village, Santhavasal Post , Polur Taluk to the petitioner in accordance with the decree in O.S.No. 118 of 1976, dated 20.01.1979 on the file of learned District Munsif, Polur.

For Petitioner : Mr.M.Raja Sekar

For Respondents : Mr.R.Muthukumarasamy
Advocate General
Assisted by Mr.S.V.Doraisolaimalai
Addl. Govt. Pleader - for R1 to R4

Mr.V.Lakshminarayanan - for R5

ORDER

The petitioner has filed the above writ petition to issue a Writ of Mandamus, directing the 4th respondent to comply with the communication of the District Munsif, Polur, dated 30.12.2016 to handover the possession of the property measuring an extent of 83 cents situated in S.No.53 , Kangranandal Village, Santhavasal Post, Polur Taluk to the petitioner in accordance with the decree in O.S.No.

118 of 1976, dated 20.01.1979 on the file of District Munsif Court, Polur.

2. When the matter is taken up for hearing, Mr.R.Muthukumarasamy, learned Advocate General, appearing for the respondents, submitted that when the Tahsildar is not a party before the Executing Court, the District Munisf, Polur should not have sent a letter to the Tahsildar for measuring the suit property and to hand over possession of the property, after removing the encroachments.

3. Mr.M.Raja Sekar, learned counsel appearing for the petitioner submitted that in view of the submission made by the learned Advocate General, a liberty may be given to the petitioner to submit a representation to the Tahsildar for measuring and fixing the boundary stones in the suit property and on giving such representation, the 4th respondent, Tahsildar, may be directed to measure and fix the boundary stones in the suit property in Survey No.53, within a time frame.

4. In view of the submissions made by the learned counsel on either side, I grant liberty to the petitioner to submit a representation

to the 4th respondent for measuring the suit property in S.No.53, Kangranandal Village, Santhavasal Post, Polur Taluk, measuring an extent of 83 cents and fix the boundary stones in the suit property, within one week, from the date of receipt of a copy of this order. It is needless to say that the petitioner shall pay the necessary fee for measuring the land and fixing the boundary stones to the 4th respondent. On receipt of such representation, the 4th respondent is directed to measure and fix the boundary stones in the above said land, within four weeks from the date of submission of the representation by the petitioner. After the measurement and fixing the boundary stones by the 4th respondent, the petitioner is at liberty to prosecute the Execution Petition and take possession of the property as per the decree in O.S.No.118 of 1976 on the file of District Munsif court, Polur.

With these observations, the writ petition is disposed of. No costs.

18.04.2017

Index: Yes/No

Note : Issue copy of the order by 21.04.2017

Rj

To

- 1 The Secretary to the Government of Tamil Nadu
Revenue Department
Fort St. George Chennai 600 009
- 2 The Collector
Office of the Collectorate of Tamilnadu
Thiruvannamalai District.
- 3 The Revenue Divisional Officer
Office of the Revenue Division Office
Polur Taluk
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- 4 The Tahsildar
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- 5 The Chief Executive Officer
Tamilnadu Wakf Board
No.3, Santhome High Road
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M.DURAISWAMY,J.

Rj

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