

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2017

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.485 of 2017 and
WMP.No.520 of 2017

Bakiyam

... Petitioner

Vs.

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Tahsildar,
Polur Taluk,
Polur,
Tiruvannamalai.

3.Muthuvalli
rep. by Esak Sayeb

.... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to India for the issuance of a Writ of Declaration to declare that the land comprising 0.33.05 ares, 83 cents in Survey No.53 belongs to Government Poroamboke burial ground and 3rd respondent has no title/right over the above said land.

For Petitioner : Mr.T.Karunakaran

For Respondents : Mr.S.V.Dorai Solamalai,
Additional Government Pleade

O R D E R

The Writ Petition is filed to issue a Writ of Declaration to declare that the land comprising 0.33.05 ares, 83 cents in Survey No.53 belongs to Government Poroamboke burial ground and 3rd respondent has no title/right over the above said land.

2. The case of the petitioner is that the 3rd respondent filed a suit in O.S.No.118 of 1976 before the District Munsif Court, Arni for declaration of the suit property in Survey No.53-083 cents in Kankirananthal Village, Polur Taluk, North Arcot District against 18 defendants and by suppressing the real facts, obtained a decree. On the strength of the said

decree, the 3rd respondent herein filed E.P.No.515/1982 in O.S.No.118 of 1976 before the District Munsif Court, Polur for recovery of possession where the petitioner is residing.

According to the petitioner, the suit property is a Government Poramboke Land. Further, while executing the decree, the 1st respondent wrote a letter through his proceedings in Na.Ka.No.G2/15033/2009, dated 19.09.2016 to the District Munsif Court, Polur, stating that the property mentioned in the execution proceedings No.515 of 1982 belongs to Government Poramboke Burial Ground land. Therefore, the 3rd respondent has no title/right over the above said land. Hence, this Writ Petition.

3. Heard both sides.

4. On the face of the records, the writ petition is not maintainable for suppression of real facts. First of all, on a perusal of the records, it appears that the application for impleading in the E.P.No.515/1982 in O.S.No.118 of 1976 before the District Munsif Court, Polur, though it was allowed, the matter was taken up before this Court in CRP.NPD.No.2233 of 2015 by the 3rd respondent. In the said Civil Revision Petition, by order dated 10.06.2016, a direction was given by this Court to contest the matter on merits. Thereafter, the Execution Petition was contested and orders have been passed. Then, the petitioner once again filed O.S.No.227 of 2007 before the said court seeking the same relief. But, the petitioner has not mentioned in the affidavit about that suit. Hence, for the suppression of factual aspect, namely, filing of the civil suit earlier, the writ petition cannot be maintained.

5. In view of all the above, the Writ Petition is dismissed with a direction to the petitioner to pay a sum of Rs.10,000/- (Rupees Ten Thousand Only) as costs to the Mediation and Conciliation Centre attached to the High Court, Madras, within a period of one week from the date of receipt of a copy of this Order. No costs. Consequently, connected Miscellaneous Petition is closed.

6. Post the matter for reporting compliance one week after the receipt of copy of order.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

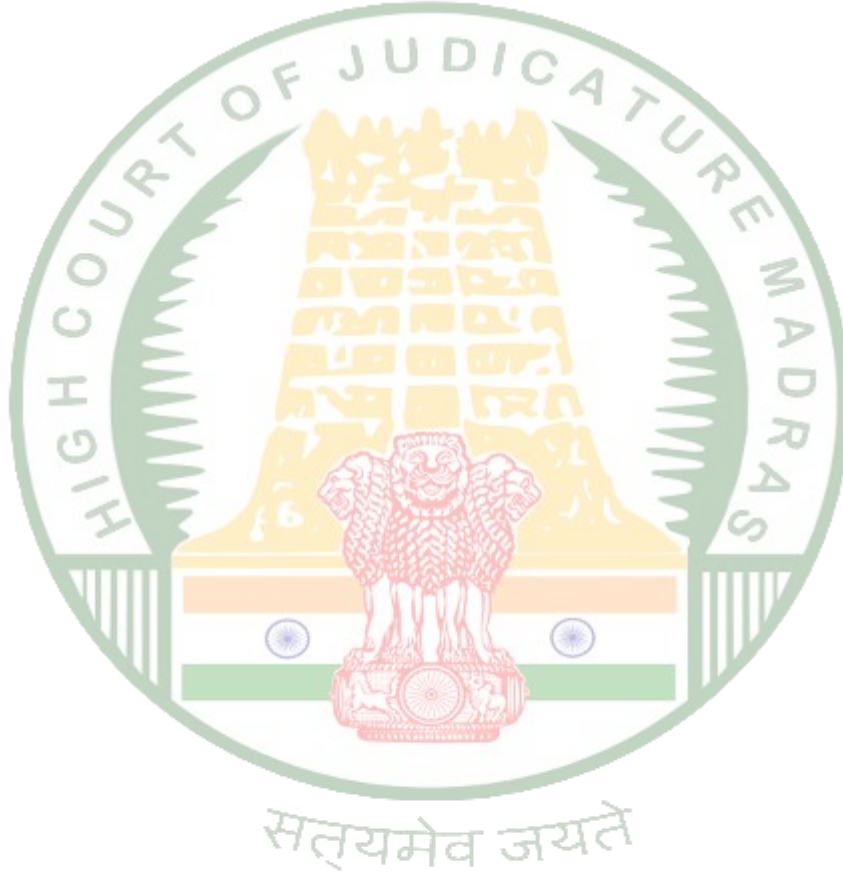
1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2. The Tahsildar,
Polur Taluk,
Polur,

Tiruvannamalai.
+1cc to Mr.T. Karunakaran Advocate, SR. 1451
+1cc to The Govt. Pleader, SR. 1647

W.P.No.485 of 2017

ALA (CO)
VR (22/02/2017)



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