

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.34382 of 2016
W.M.P.No.29624 of 2016

1.T.Srinivasan
2.M.Devanathan
3.M.Chinnaraj
4.B.B.Senthil
5.A.Sarangapani
6.R.K.Durairaj
7.D.Srinivasan
8.R.Yuvaraj
9.S.Kala
10.V.Velu
11.V.Eganathan
12.S.Subramani

.... Petitioners

Vs.

1.The District Collector,
Villupuram District,
Villupuram.
2.The Commisioner,
Villupuram Municipal Corporation,
Villupuram, Villupuram District.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to declare that the open plot in Villupuram Town, Ward No.4, Virattikuppam Road situated in Survey No.341/1 measuring about 1 acre and 15 cents, bounded by Murugan Layout in the East, Baba Nagar in the West, Fathima Beevi Layout in the South and the Main Road in the North is not a burial ground.

For Petitioners : Mr.G.Karthikeyan

For Respondents : Mr.S.Diwakar,
Special Government Pleader for R1

Mr.M.Elumalai,
Government Advocate for R2

ORDER

This writ petition has been filed by the petitioner seeking a direction to the respondents to declare the open plot as a one not to be used as a burial ground.

2. The learned counsel appearing for the petitioners submits that the petitioners and others have put up houses nearby area and now, an attempt has been made to treat the open plot as burial ground.

3. On instruction, the learned Government Advocate appearing for the second respondent would submit that the area has been earmarked as a burial ground even as per the sale deed dated 14.12.1938. As per the said sale deed, the said place has to be used only for the Cemetery of Muslim community alone. It is also classified as burial ground in the Revenue records.

4. Apart from the disputed questions of law involved, the prayer sought for cannot be granted by this Court. The petitioner cannot seek as a matter of right not to declare a particular place as a burial ground when it is classified as earmarked as such. Merely because houses have come into being in the nearby area, the same cannot be a factor to grant the prayer. This Court does not find any violation of fundamental right involved in such a prayer. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(csiv)

True Copy

Sub-Assistant Registrar

raa

To

1.The District Collector,
Villupuram District,
Villupuram.

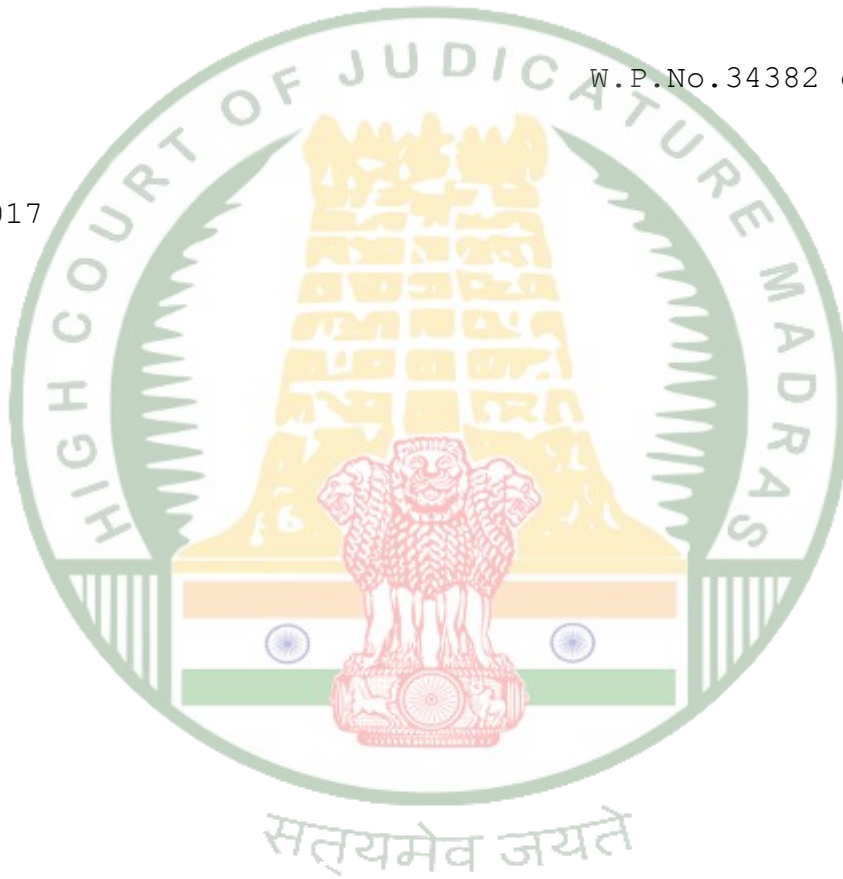
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2.The Commisioner,
Villupuram Municipal Corporation,
Villupuram, Villupuram District.

+1 cc to M/s.G.Karthikeyan Advocate sr 21833
+1 cc to M/s.M.Elumalai Government Advocate sr 22073
+1 cc to the Government Pleader sr 22110

W.P.No.34382 of 2016

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