

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.3521 of 2019

Karunanidhi (A/52 years)

S/o.Subramani,

No.3/182, Malaipalayam,

Sulthanpet,

Malayanandipalayam,

Sulur, Coimbatore.

... Appellant/Petitioner

Vs

1.The Assistant Tahsildar,
Sulur (10) Taluk Coimbatore (12)
District Coimbatore.

2.The Chief Engineer,
Tamil Nadu Electricity Board Malayandipalayam,
Sulthenpet, Sulur Taluk,
Coimbatore District.

3.Easwara Gounder,
S/o.Arumuga Gounder,
Malayadipalayam,
Hamlet of Malaipalayam,
Sulur Taluk,
Coimbatore District.

... Respondents/Respondents

PRAYER : Appeal against the order dated 25.01.2019 made in
W.P.No.32433 of 2018 on the file of this Court.

W.P.No.32433 of 2018:Petition filed under Article 226 of the
Constitution of India praying this Court to issue a Writ of
Certiorari Calling for the records of the order Assistant
Thasildar Sulur dated 01.12.2017 to quash the same and
consequently to direct the 1st respondent to issue the
certificate of ownership in the favour of the petitioner with
regard to the property S.F.No. 323-3A Malayandipalayam
Sulthenpet Sulur (10) Taluk Coimbatore (12) District.

For Appellant : Mr.C.Deivasigamani

For Respondents: Mr.J.Pothiraj, (for R1)

Special Government Pleader

Mr.S.K.Rameshuwar (for R2)
Standing counsel

Mr.D.R.Arunkumar (for R3)

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the writ petitioner, who was denied the possession certificate by the Tahsildar in respect of the property comprised in S.Nos.323/3A and 323/3C. Against the said rejection, Writ Petition has been filed and the said Writ Petition has been dismissed by the learned single Judge, against which the present Writ Appeal has been filed.

2.Heard Mr.C.Deivasigamani, learned counsel appearing on behalf of the appellant, Mr.J.Pothiraj, learned counsel appearing on behalf of the 1st respondent, Mr.S.K.Rameshuwar, learned standing counsel appearing on behalf of the 2nd respondent and Mr.D.R.Arunkumar, learned counsel appearing on behalf of the 3rd respondent.

3.The claim of the appellant is that the property was inherited by him from his paternal aunt by way of gift deed and therefore, he has become the owner of the property. However, it is evident from the impugned order dated 01.12.2017 that there is a Suit in O.S.No.851 of 2017 filed by the 3rd respondent, claiming 1/4th share in the property. When a suit for partition is pending, the relief sought for by the appellant cannot be granted. If such a document is given by the Tahsildar, it will be taken as an advantage by the appellant when the rights of the parties have to be declared in the suit.

4.In these circumstances, the prayer sought for by the appellant cannot be granted. Accordingly, the Appeal fails and the same is dismissed. Since the Suit is of the year 2017, this court could only direct the trial Court to dispose of the same expeditiously, after the disposal of the CRP.No.3329 of 2017. No costs.

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-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Assistant Tahsildar,
Sulur (10) Taluk Coimbatore (12)
District Coimbatore.

2.The Chief Engineer,
Tamil Nadu Electricity Board Malayandipalayam,
Sulthenpet, Sulur Taluk,
Coimbatore District.

+1 CC to Mr.C.Deivasigamani, Advocate sr 89919

+1 CC to Mr.D.R.Arunkumar, Advocate sr 90024

+1 CC to The Govt. Pleader sr 90414.

W.A.No.3521 of 2019

VGI (CO)
SP(06/12/2019)



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