

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29..06..2015

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice T.S.SIVAGNANAM

W.P.No.13729 of 2015
and
M.P.Nos.1 and 2 of 2015

D.Manoharan .. Petitioner
versus

1. The District Collector,
Tiruppur District.
Tiruppur.

2.The Sub-Collector
Tiruppur.

3.The Tahsildar
Palladam Taluk
Palladam,
Tiruppur District.

4.The Commissioner
Palladam Panchayat Union,
Palladam.

5.Panikkampatti Village Panchayat
(Secondary Grade)
represented by its President
Panikkampatti Village, Palladam Taluk
Tiruppur District.

6.A.Annadurai. .. Respondents
(R6 impleaded as per order dated 29.6.2015
in M.P.No.3/15 in W.P.No.13729/15)

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorarified Mandamus, calling for the records of the first respondent dated 27.02.2015 made in Na.Ka.291/2014/B1 and quash the same and consequently forbear the respondents from any manner putting up electric crematorium in the pond bearing S.No.386/B of Natham Poramboke to an extent of 2.00 acres situated at Vengitapuram Village, Palladam Taluk, Tiruppur District comes under the jurisdiction of the 5th respondent.

For Petitioner ::: Mr.G.Ethirajulu

For Respondents ::: Mr.S.T.S.Murthy
Special Government Pleader for R.1 to R.4
Mr.M.Purushothaman for impleading
respondent no.6

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

The petitioner claims to have filed the present petition on behalf of the residents of the Venkittapuram village having more than 500 houses, seeking to assail the decision taken by the Collector, Tiruppur, to establish an electric crematorium in the pond bearing S.No.386/B of Natham Poramboke to an extent of 2.00 acres situated at Vengitapuram village, Palladam Taluk, Tiruppur District.

2. The petitioner claims that the electric crematorium is being set up on a pond bearing S.No.386/B of Natham Poramboke to the extent of two acres situated in the said village. It is his say that the panchayat is opposing the establishment of the electric crematorium and in fact funds have been allocated under the Mahathma Gandhi National Rural Employment Scheme for revitalising the pond.

3. The issue of setting up the electric crematorium has a chequered history. The Notary Club has agreed to sponsor it. Earlier, it was to be located in another place, but that decision was not implemented and two petitions were filed earlier seeking directions for construction of the electric crematorium being W.P.No.3090 of 2014 and W.P.No.3900 of 2015. Ultimately, in the subsequent writ petition, the stand of the respondent was noted, while disposing of the petition that the land for the same has been located.

4. It is the common stand of the Government authorities and the private respondents that the land in question falls under the category of Poramboke. The revenue records are also apparent to the effect that it is a Government land. It is also the case of the private respondents that there is no habitation in the vicinity of the place where an electric crematorium is sought to be established within the distance of about 2 kilo meters apart from the fact that there are wind mills in the said area and the electric crematorium does not envisage burning of bodies in open and there can be no reason for the petitioner's apprehension.

5. On hearing the learned counsel for the parties, we are of the view that the only aspect that has to be examined is the nature of

the land. This is an aspect for the first respondent to look into as the material on record is not sufficient to establish that the area in question is a water body - pond. The first respondent may thus look into the revenue records to verify the nature of the land and if it is a Government land, there would be no impediment, but a problem may arise if it is classified as a pond. This exercise may be undertaken by the Collector, Tiruppur, within 15 days of the receipt of this order.

6. We are of the view that there is nothing in this petition that would partake the character of a Public Interest Litigation for us to interfere in the matter.

7. The writ petition accordingly stands closed. No costs.

Copy of the order be issued to the first respondent/Collector.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

ksr

To

1. The District Collector, Tiruppur District, Tiruppur.

2.The Sub-Collector, Tiruppur.

3.The Tahsildar, Palladam Taluk
Palladam, Tiruppur District.

4.The Commissioner, Palladam Panchayat Union, Palladam.

1 cc to Mr.G.Ethirajulu , Advocate Sr.No.31913

1 cc to Mr.M.Purushothaman , Advocate Sr.No.31994

1 cc to Government Pleader.Sr.No.31978

WP.No.13729 of 2015

nm(co)

pmk.15.7.2015