

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2015

C O R A M :

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Review Application (Writ) No.173 of 2015

in

W.P.No.11839 of 2015

Sakthi R. Balan

... Petitioner

Versus

1. The District Collector
Chennai District
Rajaji Road, Chennai

2.The Tahsildar
Mylapore - Triplicane Taluk,
Now Taramani Taluk
Chennai 600 013.

3.The Chairman
Previously Zone-X,
Now Zone XIII,
Chennai Corporation,
L.B.Road, Adyar, Chennai 600 020.

4.The Assistant Commissioner
Zone-XIII, Chennai Corporation
Adyar, Chennai 600 020

...Respondents

PRAYER : Application filed under Order 47 Rule r/w Section 114 of
C.P.C to review the order passed in W.P.No.11839 of 2015
dated 22.04.2015, on the file of this Court.

For petitioner : Mr. S.Kumaresan

For respondents : Mr.V.R.Kamalanathan
AGP for R.1 and R.2
Mr.K.Soundarajan for R.3 and R.4

ORDER

(ORDER OF THE COURT WAS MADE BY THE HON'BLE THE CHIEF JUSTICE)

A writ petition was filed before us by one S.Sivakumar being W.P.No.2856 of 2015, alleging that land located in S.No.19 of Thiruvalluvar Nagar, Thiruvanmiyur, Chennai 600 041, which was to be developed into a park and annexed with the existing adjacent park should be so developed in view of the resolution passed by

Ward No.10 (under Subject 40) of Chennai Corporation dated 28.01.2009.

2. Learned counsel for the respondent/Corporation, has recorded in the proceedings dated 30.03.2015, stated that he obtained instructions that the subject matter of land was no more being used as burial ground (as alleged by the petitioner therein) nor will it be permitted to be so used, while the issue of its conversion into a public park is being examined. The said statement is taken on record.

3. Learned counsel for the petitioner submitted that despite the statement, the ground reality is that burials were taking place and to prevent so, the ingress and egress through a sole opening should be closed.

4. In view of the stand of the respondent/Corporation, we

direct the same to be done in order to secure the area, so that no burial takes place. It is subsequently that the writ petition was filed by the petitioner being the present writ petition, seeking quashing of the resolution passed on 28.01.2009 and to permit the colony people to utilize the burial ground. We dismissed this writ petition as the resolution was sought to be challenged after six years and the issue of conversion of the land into a public park was being examined and thus, the area would have to remain secured. We are of the view that the present petition is thus a counter-blast seeking to nullify the order passed by us earlier.

5. Now review petition has been preferred in respect of that order on account of prevention by the authorities for utilizing the area as a burial ground.

6. Learned counsel for the Corporation states before us that

the resolution passed in 2009 by the Ward, has to be examined by the Corporation. If it was to be so required, we fail to understand the stand of the Corporation which was taken before us in the earlier proceedings. Not only that, we also fail to understand how the Corporation would be completely silent on the resolution for a period of six years. The complication has been created by the Corporation itself and it must bear the consequences.

7. We are thus of the view that there is no need to exercise any review jurisdiction in this matter as there is no error apparent on the face of the record.

8. We also simultaneously are of the view that the petitioner may approach the Corporation and the Corporation must take a final view in the matter in accordance with law, as to what purpose the land has to be put to use, within a maximum period of one month

from the date of the receipt of the order, after considering the view of all the stakeholders.

9. The Review Petition fails and is dismissed with the aforesaid direction. No costs.

(S.K.K., C.J.) (T.S.S., J.)
08.09.2015

ksr

**THE HON'BLE THE CHIEF JUSTICE
AND
T.S. SIVAGNANAM, J.**

ksr

Review Application (Writ)
No.173 of 2015 against
W.P.No.11839 of 2015

08.09.2015