

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.04.2015

CORAM:

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

W.P.No.3900 of 2015

A.Annadurai

... Petitioner

versus

- 1.The Secretary to the Government of Tamil Nadu
Revenue Department,
Secretariat, Chennai 600009.
- 2.The Commissioner of Land Administration
Ezhilagam,
Chepauk, Chennai 600005.
- 3.The District Collector
Tiruppur.
- 4.District Revenue Officer,
Collectorate, Tiruppur.
- 5.The Sub Collector, Tiruppur.
- 6.The Tahsildar
Palladam,
Tiruppur District.
- 7.The Commissioner
Palladam Union
Union Office,
Palladam 641 664.
Tiruppur District.

8. Palladam Rotary Electric Crematorium Trust,
represented by its President
Rajeswari Nursing Home,
16/153, N.G.R. Road,
Palladam 641 664.
Tiruppur District

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Certiorari Mandamus, calling for the records in the impugned order passed by the 3rd respondent in his proceedings in Na.Ka.No.291/2014/Aa1 dated 20.01.2015 and quash the same as illegal and consequently directing the respondents 1 to 7 to construct a 'modern electric crematorium' in a piece of land situated on the Palladam-Coimbatore Highway, measuring 2 acres in S.No.285/3, in the Sukkampalayam Village in Palladam Taluk in Tiruppur District at its own cost or with the aid of the 8th respondent.

For Petitioner : Mr.M.Purushothaman

For Respondents : Mr.S.T.S.Murthy
Government Pleader for RR.1 to 7
Mr.C.Vijay for R.8

O R D E R

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

This PIL, seeks a writ of mandamus to quash the impugned order passed by the third respondent on 20.01.2015 with a direction to construct a modern electric crematorium in a piece of land situated at the Polladam-Coimbatore Highway measuring two acres in S.No.285/3 in Sukkampalayam Village in Palladam Taluk, Tiruppur District at a cost to be borne by the 8th respondent/part of Rotary.

2. The endeavour of the 8th respondent to construct an electric crematorium has a long history as different locations originally found suitable have been subsequently rejected. This has also been the fate of the land in question, where the electric crematorium was sought to be constructed. The petitioner relies upon a set of Google maps to show that there are other electric crematorium which are in highly congested areas, while the proposed location is quite open. It is alleged that declining of permission is linked to the interest of builders who are keen to utilise that area for development purposes.

3. In the counter affidavit filed, the rationale for rejection of the site after it was initially located and recommended by the authorities has been set out in paragraph-12. The relevant portion reads as under:

"I further submit that after perusal of the relevant documents claims and objection in this regard, the district administration is first realised that the said place is located abetting to East West National High Way road NH67. The said Highway road is highly heavy traffic and the National Highway Authorities have already started to widen the Four Track Road in the aforesaid Highways and widen part of the road as Four Tracks in many places, more particularly in the proposed land for the said Modern Electrical Crematorium. At present, two tracks road is existing there with moderate curve was taking into consideration, the traffic congestion and reduce the road mishap in that place, it is just and necessary to straighten that curve of road in future and simultaneously has to be widened as to the plan of National Highways authorities. Hence the writ petitioner's requirement of 2 acres of land for construction of modern Electrical Crematorium would not be allotted, by expecting that the National Highways Authorities would acquire such place where the proposed Electrical Crematorium is situated. In order to keep the road safety and maintain the free traffic flow in National Highways No. NH67, as well as the interest of public at large, it necessitated to discard the writ petitioner's proposal of the said land for said purpose."

4. The order dated 20.01.2015, which is now placed on record seeks to give reasons for rejection of site. The order records the reasons as under:

1. Survey No. 284/2C, 56 meter from plastic company.
2. Survey No. 284/2B is 110 meter from the resident.
3. Survey No. 2/2 is 220 meter from the resident
4. From Perumpali Kuttai 224 meter.
5. 225 from Survey No. 284.
6. From Infant Jesus Church 301 meter.
7. From Infant Jesus Matriculation School 304.6 meter.
8. From Srivari Garden resident 318 meters.

9.From Survey No.290/2 T.D.Park 420 meters."

5. We may also note that another writ petition bearing W.P.No.11788 of 2014, was stated pending where by order dated 16.02.2015, we directed that matter also to be listed before this Court. In that behalf, there appears to be some communication gap, as in the mean time that writ petition has been dismissed on 24.03.2015.

6. Learned counsel for the petitioner makes the grievance that though the writ petition was dismissed, the petitioner therein has been granted liberty to approach the competent civil court which has capacity to prolong the litigation. The subsequent development after the last order is the order dated 20.01.2015 passed by the District Collector, where the new piece of land of 2 acres has been identified in Natham Survey No.386/2 poramboke situated at Panikkampatti Village, Palladam Taluk, Tiruppur District, to construct the electric crematorium subject to the conditions specified in the letter that would take care of the position, but the learned counsel for the petitioner has an apprehension that this location is also likely to meet the same fate as happened in the past number of years. In our view, there can be no guarantee in this behalf, but one would expect that the respondents would have taken all due care to locate a site where finally the crematorium can be constructed by the 8th respondent.

7.The necessary permission is stated to have been given and possession can be taken by the 8th respondent.

8. We are thus of the view that no further directions are required and the petition is accordingly closed with liberty to revive in case if there is any difficulty at the new site. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

ksr

Copy to:

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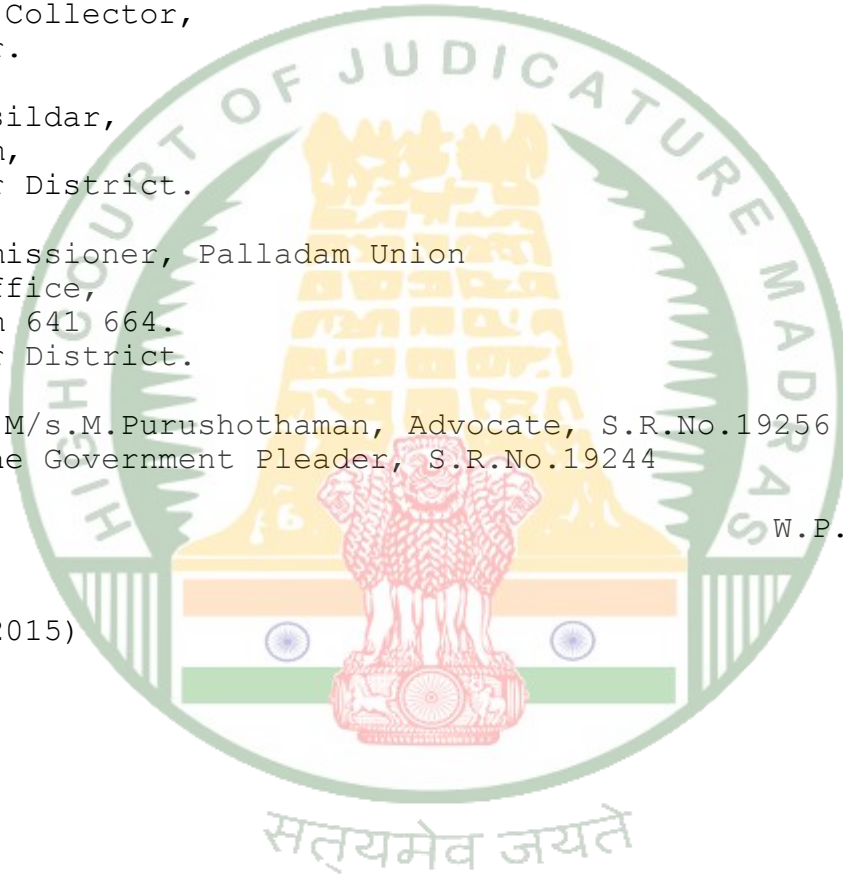
6.The Tahsildar,
Palladam,
Tiruppur District.

7.The Commissioner, Palladam Union
Union Office,
Palladam 641 664.
Tiruppur District.

+3cc's to M/s.M.Purushothaman, Advocate, S.R.No.19256
+1cc to the Government Pleader, S.R.No.19244

W.P.No.3900 of 2015

CA(CO)
CA(13/04/2015)



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