

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.5797 of 2013

and

M.P.No.1 of 2013

A.Ramamoorthi

..Petitioner

Vs.

- 1.The District Collector,
District Collectorate Complex,
Cuddalore-1.
- 2.The Assistant Director (Panchayat),
Office at District Collectorate Complex,
Cuddalore - 1.
- 3.The Sub Collector,
O/o.Sub Collector,
Cuddalore -1.
- 4.The President,
Sedappalayam Village Panchayat,
Cuddalore Panchayat Union,
Sedappalayam Post,
Cuddalore Taluk & Dist.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondents 1 to 3 to take action pursuant to the representation dated 04.02.2013 and to issue necessary direction to the 4th respondent to prevent the villagers of Seethakuppam Village from burying or burning corpses nearby the tank, source of drinking water supply situated in Survey No.8/6 of Sedappalayam Village.

For Petitioner : Mr. V.Venkkatasamy

For R1 to R3 : Mr. V.S.Ramesh
Government Advocate

For R4 : Mr.V.Jayaprakash Narayanan

O R D E R

The grievance of the petitioner is that the villagers of Seethakuppam are utilising the land comprised in S.No.8/6 at Sedappalayam Village to bury and burn corpses nearby a tank, which is the source of drinking water for Sedappalayam Village.

2. The learned counsel appearing for the petitioner would submit that the land comprised in S.No.8/6 is classified as a water body. He would further submit that under Rule 7(1) of the Tamil Nadu Village Panchayat (Provisions of Burial and Burning) Rules 1999, there is a prohibition to bury or burn any corpse in the place within ninety meters of a dwelling place or source of drinking water supply. Since the land in question has been classified as water body, the petitioner has given a representation dated 19.03.2012 to the third respondent and the same has not been considered so far. Hence, the petitioner has filed the present writ petition.

3. Heard Mr.V.Venkattasamy, learned counsel appearing for the petitioner; Mr.V.S.Ramesh, learned Government Advocate appearing for the respondents 1 to 3 and Mr.V.Jayaprakash Narayanan, learned counsel appearing for the 4th respondent.

4. It is not in dispute that the land comprised in S.No.8/6 is classified as water body. The fourth respondent has filed a counter affidavit affirming that the said land is classified as Eriporamboke.

5. In view of the said classification and also in the light of a clear bar under Rule 7 (1) of the Tamil Nadu Village Panchayat (Provisions of Burial and Burning) Rules 1999, the burning /burying of dead bodies within 90 meters of the land in S.No.8/6 may not be proper.

6. Under such circumstances, the petitioner is permitted to make a representation to the first respondent with regard to his grievance within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, the first respondent shall consider the same and pass appropriate orders in accordance with law, within a period of

six weeks from the date of receipt of such representation. While disposing the representation, the first respondent shall take into consideration the classification of the said land in the revenue records as well as the provisions of Tamil Nadu Village Panchayat (Provisions of Burial and Burning) Rules 1999.

7. Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

kkd

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
District Collectorate Complex,
Cuddalore-1.
- 2.The Assistant Director (Panchayat),
Office at District Collectorate Complex,
Cuddalore - 1.
- 3.The Sub Collector,
O/o.Sub Collector,
Cuddalore -1.
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Sedappalayam Village Panchayat,
Cuddalore Panchayat Union,
Sedappalayam Post,
Cuddalore Taluk & Dist.

+ 1 cc to Mr.V.Jayaprakash Narayanan, Advocate Sr 67003

+ 2 ccs to The Govt.Pleader, Sr 66732 & 66653

KR/28/12

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