

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.07.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice R.MAHADEVAN

W.P.No.12082 of 2013

R.Thamizhmani

... Petitioner

-Versus-

1.The District Collector,
Erode.

2.The Revenue Divisional Officer,
Erode District,
Erode.

3.The Tahsildar, Taluk Office,
Erode.

4.The Superintendent of Police
Erode District.

5.T.Senthilkumar
6.M.K.Palanisamy
7.R.Balakrishnan
8.S.Arumugam
9.P.Ponnusamy
10.P.Thangavel.

(R5 Impleaded as per the Order of this Court Dated
3.5.13 in MP.NO.2/13 IN WP.12082/13)

(R.6 to R.10 Impleaded as per the Order of this Court
Dated 7.8.2013 by ACJ & MSNJ)

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Mandamus, directing the respondents to ensure that all the people of the petitioner's village continue to utilize the cremation ground by providing adequate security.

For Petitioner ::: Mr.R.Thirumoorthy

For Respondents::: Mr.S.T.S.Murthi

Government Pleader

Assisted by Mr.V.Shanmugasundaram,

Govt.Advocate for R.1 to R.4

Mr.G.Ethirajulu for R.6 to R.10

No Appearance for R.5

O R D E R

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

A general prayer is made for a writ of mandamus to the official respondents to ensure that all people of the petitioner's village are permitted to utilize the cremation ground.

2.A counter affidavit filed on behalf of the respondents Nos.1 to 4 has clarified the factual position in paragraphs- 10 to 13 as under:

10. I respectfully submit that infact, S.F.No.407 in Elavamalai Village is not being used as a burial ground at any point of time. It is a poramboke land which is divided as 407/1 and 407/2 declaring 407/1 as Natham Poramboke and pattas had been issued to 150 persons comprising an extent of about 7 acres only in the year 1995 and S.F.No.407/2 still remains as ''parai'' poramboke and formerly S.F.No.407 was being used as Parai Poramboke. I humbly submit that not a piece of land in S.F.No.407 is being used as a burial ground or a place for burning dead bodies.

11.I submit that the Kongu Vellalar Community people against whom the writ petitioner is levelling allegations are residing in S.F.No.408 situate in Marappampalayam village which is situate on the south of S.F.No.407. The above said people are exclusively using the land in S.F.No.244 as burial ground which is situate on the west of S.F.No.407 and further more they are using the same for more than 150 years and no other community people used them at any point of time and further the Kongu Vellalar Community people under ''Namakku Nammae Thittam'' put up compound and a gate for their burial place on

their own costs 5 or 6 years back with subsidy given by the Government.

12. I submit that the writ petitioner and their village people were migrated from several places and encroached upon S.F.No.407 in or about in the year 1991 or 1992 and they were given pattas only in the year 1995 and they were new comers in that locality and that no ancestors of them would have lived in that locality.

13.I submit that a land was allotted to the writ petitioner's village people in S.F.No.265 for burial and burning of dead bodies which is situated on the west of S.F.No.407 and they are still using it for the same. Further S.C. Community people were allotted one corner of S.F.No.265 for burial and burnings. Further so ''Samathi'' is put up in the burial ground and that there is no necessity for the respective people to respect their ancestors.''

3. In view of the aforesaid stand of the respondents, the writ petition is closed, leaving the parties to bear their own costs.

ksr

Sd/-
Asst.Registrar (CS-V)

/true copy/

Sub Asst. Registrar

To

1.The District Collector,
Erode.

2.The Revenue Divisional Officer,
Erode District,
Erode.

3.The Tahsildar,
Taluk Office, Erode.

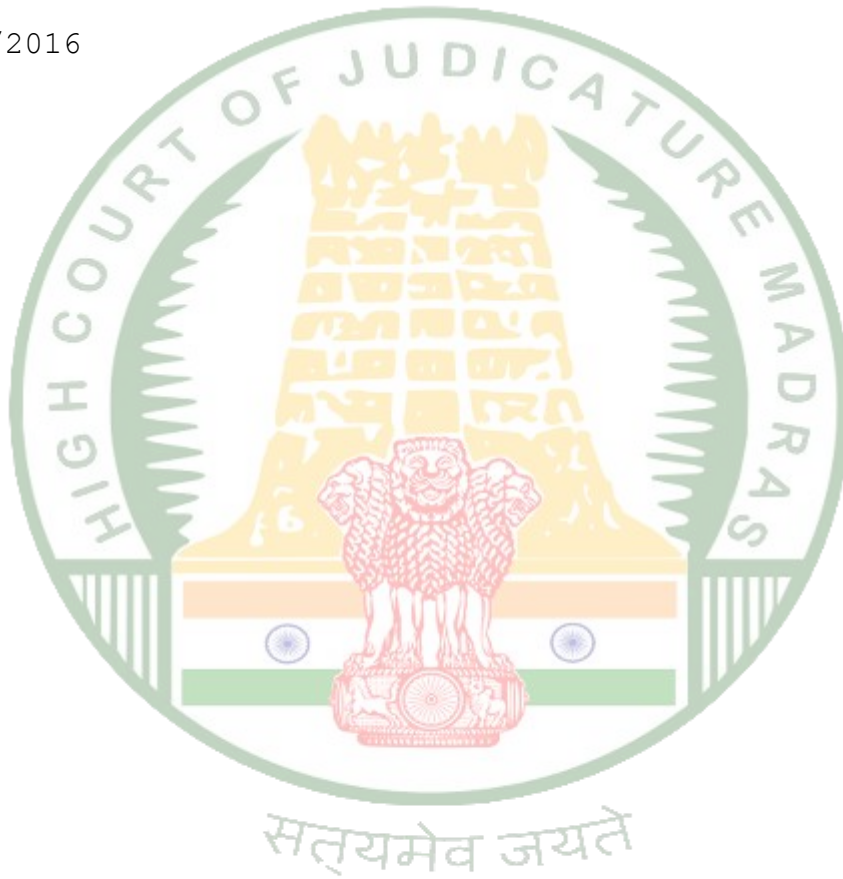
4.The Superintendent of Police,
Erode District.

+ 1 cc to The Govt.Pleader, Sr 37419

+ 1 cc to Mr.R.Thirumoorthy, Advocate Sr 37602

W.P.No.12082 of 2013

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