



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 24.06.2016
CORAM

THE HONOURABLE MR. JUSTICE M.VENUGOPAL

W.P(MD)No.11272 of 2016

WEB COPY

P.C.Perumalsamy

..Petitioner

Vs

1.The District Collector,
Dindigul District,
Dindigul.

2.The Tahsildar(West),
Dindigul West Taluk,
Dindigul.

3.The Village Administrative Officer,
Gurunathannayakanur Village,
Reddiarchathiram Via,
Dindigul District.

4.M.Natarajan

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent Nos.1 to 3 to consider the representation of the Petitioner, dated 16.3.2016 and exhume the dead bodies buried by the Respondent No.4 at the entrance of the Petitioner's lands in S.Nos.727/8,727/9,727/10,727/11 and 727/12 situate adjacent to Reddiarchathiram-SeethamaramNal Road in Gurunathannayakanur Village, Reddiarchathiram Union, Dindigul West Taluk, Dindigul District and rebury the same in the burial ground ear-marked in the village within the time frame prescribed by this Court.

For Petitioner :M/s.Y.Prakash

For Respondents :Mr.S.Kumar
1 to 3 Addl.Govt.Pleader

ORDER

Heard the Learned Counsel for the Petitioner and the learned Additional Government Pleader appearing on behalf of the Respondents 1 to 3. In respect of Respondent No.4, to avoid avoidable delay, notice is dispensed with.

2.By consent of both sides, the main Writ Petition itself is taken up for final disposal.

3.According to the Petitioner, he along with one Nazar Mohamed are the absolute owners of the agricultural lands situated in S.Nos.727/8,727/9,727/10,727/11 and 727/12 situate adjacent to Reddiarchathiram-SeethamaramNal Road in Gurunathannayakanur Village, Reddiarchathiram Union, Dindigul West Taluk, Dindigul District. They



have the ingress and egress to the lands from Reddiarchathiram Road, which is a common public road in Gurunathanayakanur Village.

4.The stand of the Petitioner is that Fourth Respondent has lands adjacent to the Petitioner and one Nazar Mohamed's land. It is represented on behalf of the Petitioner that the Fourth Respondent had buried the dead bodies of his close relatives in Reddiarchathiram-SeethamaramNal Road at the entrance of the Petitioner's lands, very close to the boundaries. As such, he and Nazar Mohamed had objected to the burial of dead bodies near their lands and it appears that the Fourth Respondent had deliberately and intentionally buried three dead bodies near their lands, in view of the enmity and pending litigation over land disputes relating to the Petitioner and Nazar Mohamed lands.

5.The clear-cut case of the Petitioner is that the Fourth Respondent had intentionally buried dead bodies near the Petitioner's and Nazar Mohamed's agricultural lands with an aim to cause fear to the labourers working in their lands. In this connection, the Learned Counsel for the Petitioner brings it to the notice of this Court that there is a separate burial ground earmarked for the villagers for burying the dead bodies of the villagers. However, the Fourth Respondent has purposefully chosen to burry the dead bodies in public road with a view to create panic to the common public and labourers.

6.At this juncture, the Learned Counsel for the Petitioner cites Section 5 of the Tamil Nadu Village Panchayats(Provision of burial and burning grounds) Rules 1999(G.O.Ms.No.213, Rural Development(C4), dated 5th October 1999) in and by which Rule 5 reads as under:

"5.Conditions for opening of burial and burning ground:- (1) No new place for burying or burning the dead, whether private or public, shall be opened, formed, constructed or used, unless a licence has been obtained from the Village Panchayat on application."

Also, the Learned Counsel for the Petitioner adverts to Rule 7 of the above said Act, which enjoins as under:

"7.Place for burial and burning grounds:- (1) No person shall bury or burn or cause to be buried or burnt any corpse in any place within ninety meters of a dwelling place or source of drinking water-supply other than a place licenced as a burial and burning ground."

7.It comes to be known that there is an agricultural well in their lands just 40 meters and an Oorani(water body) within 20 meters away from the burial place and there is every likelihood of the water getting polluted because of the dead bodies buried in the vicinity. Apart from that, the villagers and labourers are hesitating to drink the well water and also to use the same for irrigation purposes fearing contamination. In this regard, the Petitioner sent representation to all the Respondents for taking suitable action against the Fourth Respondent and also for exhuming the bodies and burying the same at ~~any place~~ earmarked grounds ear-marked in Gurunathanayakanur Village and latest one being dated 16.3.2016.



8. In view of the fact that the representation of the Petitioner, dated 16.03.2016 addressed to the First Respondent/The District Collector, Dindigul District, Dindigul is pending in the subject-matter in issue without any progress, this Court, at this stage, simpliciter, directs the First Respondent to immediately take up the representation of the Petitioner, dated 16.3.2016, within three days from the date of receipt of a copy of this order. Thereafter, the First Respondent/The District Collector, Dindigul District, Dindigul is to consider the said representation of the Petitioner, dated 16.3.2016 of the Petitioner, conduct an enquiry by issuing notice to the concerned persons (especially the Fourth Respondent) and (after providing necessary opportunity to the Petitioner and others concerned, if any by adhering to the principles of natural justice in true letter and spirit) within a period of two weeks thereafter. It is open to the Petitioner to produce copies of all necessary/relevant documents before the First Respondent/The District Collector, Dindigul District, Dindigul and the First Respondent shall take into consideration of the same at the time of disposal of the representation of the Petitioner, dated 16.3.2016. The Petitioner is directed to lend his assistance and cooperation to the First Respondent as regards the disposal of his representation dated 16.3.2016.

9. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs.

Sd/
Assistant Registrar (CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Collector,
Dindigul District,
Dindigul.
2. The Tahsildar (West),
Dindigul West Taluk,
Dindigul.
3. The Village Administrative Officer,
Gurunathannayakanur Village,
Reddiarchathiram Via,
Dindigul District.

+1cc to M/S.Y. Prakash, Advocate in SR.No.33150
+1cc to Special Government Pleader in SR.No.33097

W.P (MD) No.11272 of 2016
24.06.2016

vsn
PA/GSV-PM/SAR III/29.06.2016/3P/6C