

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. No.24266 of 2017

N.Selvam

.. Petitioner

-vs-

1. The Secretary,
Govt. of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai 600 009.
 2. The District Collector,
Kancheepuram District,
Kancheepuram.
 3. The Commissioner,
Hindu Religious and Charitable Endowment,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 034.
 4. The Special Tahsildar,
Adidraavidar Welfare Department,
Maduranthagam Taluk,
Kancheepuram District.
 5. The Managing Trustees,
Varadaraja Perumal Koil,
No.97, Baburayapettai,
Maduranthagam Taluk,
Kancheepuram District.
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the third respondent to give consent based on the fourth respondent's letter and form the passage/road to the Adhidraavidar burial ground situated at 97, Baburayanpettai Village, Maduranthagam Taluk, Kancheepuram District based on the petitioner's application dated 28.07.2009.

For Petitioner : Mr.L.Rajendran
For Respondents : Mr.M.K.Subramanian,
Govt. Pleader for RR 1, 2 & 4
: Mr.M.Maharaja
Spl.G.P. for R-3

O R D E R

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

This writ petition has been filed in public interest seeking direction on the respondent authorities to construct a road, to provide access to the burial ground/cremation ghat meant for the Adi Dravidar community. It is the case of the petitioner that the petitioner belongs to Adi Dravidar community and is a native of Baburayanpettai Village, Madurantakam Taluk, Kancheepuram District. The petitioner is presently a resident of Chennai.

2.The petitioner has pleaded that in his village, there is a burial ground and a burial ghat for his community. However, the members of the community do not have access to the burial ground. According to the petitioner, when his mother died, the body had to be taken to the burial ground, through a paddy field, which belongs to people of a different community. Some paddy crops were damaged by the funeral procession, which gave rise to a quarrel.

3.It is contended that every time there is a death in the community, the funeral cortege has to pass through the fields of others, causing damage and destruction, and there is tension. The petitioner claims to have made a representation to the District Collector for creating access to the burial ground/cremation ghat, by construction of a road, but nothing concrete was done. The second respondent being the District Collector sent the representation to the Special Tahsildar with a direction on him to take physical inspection and necessary steps to create a passage/road to the burial ground/cremation ghat.

4.According to the petitioner, the Special Tahsildar physically inspected the place on 17.09.2009 and found that the passage leading to the burial ghat originally belonged to patta holders. It is claimed that the Special Tahsildar assured the persons of the community that discussions would be held with patta holders, after which decision would be taken to create a permanent passage to the burial ghat. It is alleged that all the patta holders agreed to provide access, save and except the third respondent who holds the land in and around No.97, Baburayanpettai, belonging to Varadaraja Perumal Temple. It

appears that the matter was taken to the Hindu Religious and Charitable Endowment Department. However, learned counsel appearing on behalf of the Department submits that the temple in question is not under the control of the Department.

5.It appears, as per the proceedings of Tahsildar, Maduranthagam, dated 09.04.2010, that there are 21.04.5 hectares of Punja Land and 58.97.0 hectares of Nanja lands (totaling to 80.01.5 hectares) in Patta No.1 situated at 97, Baburayanpettai Village, Maduranthagam Taluk, belonging to Varadaraja Perumal Temple. The Hindu Religious and Charitable Endowment may take over the management of the temple under the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

6.Be that, as it may, there cannot possibly be a burial ground or cremation ghat for any community without regular access thereto. The State is bound to ensure regular access to public burial grounds/ cremation grounds.

7.The writ petition is, thus, disposed of by directing the State to take immediate steps to provide regular access to the burial ground, if necessary, by acquisition of land in accordance with law. The State shall ensure that access is positively provided within one (1) month from date. No costs.

s/d-
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

sra

To

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4. The Special Tahsildar,
Adidraavidar Welfare Department,
Maduranthagam Taluk,
Kancheepuram District.

+1 CC to Mr.L. Rajendran, Advocate sr 68404.

VGI (CO)
sp(06/10/2017)

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