



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM  
and  
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P(MD)No.641 of 2017

N.Kubendran

.. Petitioner

Vs.

1.The District Collector,  
District Collector Office,  
Tiruchirappalli, Tiruchirappalli District.

2.The Commissioner,  
Tiruchirappalli Corporation,  
Tiruchirappalli, Tiruchirappalli District. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first and second respondents to kept abeyance of opening of burial stage till the disposal of the civil suit O.S.No.100 of 2015 on the file of the II Additional District Munsif Court, Tiruchirappalli.

For Petitioner : Mr.M.A.M.Raja

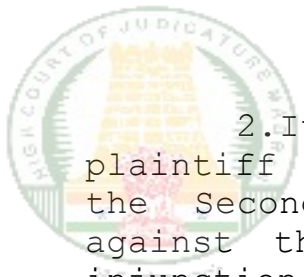
For Respondent No.1 : Mr.D.Muruganandam,  
Additional Government Pleader.

For Respondent No.2 : Mr.N.S.Karthikeyan,  
Additional Government Pleader.

ORDER

[Order of the Court was made by A.SELVAM, J.]

This writ petition has been filed under Article 226 of the Constitution of India praying to direct the respondents not to open the burial ground till the disposal of Original Suit No.100 of 2015 pending on the file of the Second Additional District Munsif Court, Tiruchirappalli, by way of issuing a writ of mandamus.



2.It is averred in the petition that the petitioner as plaintiff has filed Original Suit No.100 of 2015 on the file of the Second Additional District Munsif Court, Tiruchirappalli against the present respondents, wherein an order of interim injunction has been obtained. In spite of the interim injunction, the respondents have been making arrangements to open the burial ground in question. Under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3.Mr.D.Muruganandam, learned Additional Government Pleader, has taken notice for the first respondent and Mr.N.S.Karthikeyan, learned Additional Government Pleader, has taken notice for the second respondent.

4.It is seen from the records that the petitioner as plaintiff has instituted Original Suit No.100 of 2015 on the file of the Second Additional District Munsif Court, Tiruchirappalli, wherein the present respondents have been shown as defendants. Further it is seen from the records that in Original Suit No.100 of 2015, an application has been filed in Interlocutory Application No.74 of 2015 under Order 39, Rule 1 and 2 of the Code of Civil Procedure, 1908, wherein the respondents therein remind exparte and subsequently the said petition has been allowed and therefore it is quite clear that against the present respondents an order of interim injunction is in force.

5.Considering the fact that an order of interim injunction is in force against the respondents, if there is any disobedience, the petitioner is at liberty to file relevant petition in Original Suit No.100 of 2015 and therefore the present writ petition is not legally maintainable and the same is liable to be dismissed.

6.In fine, this writ petition is dismissed. No costs.

Sd/-  
Assistant Registrar(co)

/True copy/

Sub Assistant Registrar

To

1.The District Collector,  
District Collector Office,  
Tiruchirappalli, Tiruchirappalli District.



2.The Commissioner,  
Tiruchirappalli Corporation,  
Tiruchirappalli, Tiruchirappalli District.

WEB COPY

+1cc to M/s.A.M.Raja, Advocate SR.NO.2687  
+1cc to Mr.N.S.Karthikeyan, Advocate SR.No.2443

smn

sm:SS2-KSM:23.1.2017:3P/5C

ORDER MADE IN  
W.P (MD) No.641 of 2017  
12.01.2017