

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Writ Petition No.9555 of 2010

ORDER:

The action of the respondents, in not preventing dead-bodies from being buried in the petitioners' land, is questioned in this Writ Petition as being arbitrary, illegal and unreasonable.

The petitioners' contention is that their private patta land is being used as a burial ground by others; and, despite their representation to the authorities concerned, no action is being taken. In the counter-affidavit filed on behalf of the Tahsildar, Chevella Mandal, it is stated that, on physical inspection, they found 12 graves existing in the subject land covering an extent of Ac.0.10 guntas, and the remaining land was fallow; the petitioners are not residing in Chevella village; taking advantage of their absence in the village, the villagers were using the said land as a grave-yard for the past three years; on the instructions of the first respondent, action was taken, and the Village Revenue Officer and the Mandal Surveyor were directed to fix the boundaries; the boundaries were fixed and fenced by the petitioners; in case the villagers remove the fencing, and keep burying the dead-bodies in the said land, it is open to the petitioners to complain to the Station House Officer, Chevella; some of the graves have been in existence for the past more than five years; and, in case graves are removed, a law and order problem would arise.

The petitioners remedy, in case any other person enters upon their land, is to approach the competent Civil Court. While police aid can be granted for violation of the orders of a competent Civil Court, it would be wholly inappropriate for this Court to

adjudicate upon the rights of the petitioners over the subject land, or to issue a mandamus to the officials concerned, directing them to prevent others from entering into the petitioners land, in the absence of any statutory provision obligating them to do so. Suffice it to make it clear that it is always open to the petitioners to avail their private law remedy of filing a Civil Suit; and alternatively, in case any person seeks to enter upon their land, to complain to the concerned Station House Officer in this regard.

With these observations, the Writ Petition is disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

Date:10.11.2017.
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RAMESH RANGANATHAN, ACJ.

