



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS. JUSTICE R.THARANI

W.P. (MD) No.17313 of 2017

and W.M.P. (MD) .No.13854 2017

M.Ahamed Yaseen

: Petitioner

Vs.

1.The District Collector,
Trichy District,
Trichy.

2.The Revenue Divisional Officer,
Thuraiyur,
Trichy District.

3.The Tahsildar,
Thuraiyur Taluk,
Trichy District.

4.The Assistant Divisional Engineer,
Highways Department,
(Construction and Maintenance),
Trichy.

5.The President,
Thuraiyur Taluk, Trichy District,

6.Kannikkan @ Kanikkasamy

7.The Assistant Divisional Engineer,
Highway Department,
(Construction and Maintenance),
Thuraiyur Taluk,
Trichy District.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 5 to consider the representation of the petitioner dated 25.07.2017 to exhume and remove the buried corpse and Tombs in Survey No258/2D at Pagalavadi Village, Thuraiyur Taluk, Trichy District and further direct the respondents 1 to 5 to prevent the sixth respondent and his men from burying the corpse in the said Survey number in future in the light of provisions of the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules, 1999.



For Petitioner
For R1 to R4

: Mr.T.Lenin Kumar
: Mr.V.R.Shanmuganathan
Special Government Pleader

O R D E R

[Order of the Court was made by R.SUBBIAH, J]

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This Writ Petition has been filed for issuance of Writ of Mandamus directing the respondents 1 to 5 to consider the representation of the petitioner dated 25.07.2017 to exhume and remove the buried corpse and Tombs in Survey No258/2D at Pagalavadi Village, Thuraiyur Taluk, Trichy District and further direct the respondents 1 to 5 to prevent the sixth respondent and his men from burying the corpse in the said Survey number in future in the light of provisions of the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules, 1999.

2.Heard Mr.T.Lenin Kumar, learned counsel appearing for the petitioner and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 4.

3.The petitioner had purchased two plots in Plot Nos.23 and 24 in Ayrina Garden comprised in Survey Nos. 258/2D situated at Pagalavadi Village, Thuraiyur Taluk, Trichy District. The petitioner is in absolute possession and enjoyment of the property. The fourth respondent acquired land for laying road in between Thuraiyur and Trichy in Pagalavadi Village in Survey No.258/2D. After laying the road, the fourth respondent left vacant land in front of Ayrina Garden. The sixth respondent encroached upon the vacant land to bury the dead bodies and constructed tomb over the same. This was objected by the petitioner and others. A detailed representation was also given to the respondents 1 to 4 and other officials narrating the entire facts. Since no action was taken, the petitioner has filed this writ petition.

4. The fourth respondent has filed a counter stating that the sixth respondent has encroached the vacant land.

5. After filing this writ petition, the Assistant Engineer, Highways Department, Construction and Maintenance, Thuraiyur Taluk, Trichy District, is also impleaded as the seventh respondent.. But the seventh respondent has not chosen to file a counter before this Court.

6. On perusing the counter of the fourth respondent, this Court finds that the sixth respondent is an encroacher. In such circumstances, this Court is constrained to issue following direction:

The official respondents are directed to consider the representation of the petitioner dated 25.07.2017 and after affording opportunity to the six respondent, pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. If it is found that there is an



encroachment as alleged by the petitioner, the same shall be removed.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar(CS-II)

To

- 1.The District Collector,Trichy District,Trichy.
 - 2.The Revenue Divisional Officer,Thuraiyur,Trichy District.
 - 3.The Tahsildar,Thuraiyur Taluk,Trichy District.
 - 4.The Assistant Divisional Engineer,Highways Department,
(Construction and Maintenance),Trichy.
 - 5.The President,Thuraiyur Taluk,Trichy District,
 - 6.The Assistant Divisional Engineer,Highway Department, (Construction
and Maintenance),Thuraiyur Taluk,Trichy District.
- +lcc to Mr.T.LENINKUMAR, Advocate, SR.No. 98124
+lcc to M/s.Special Government Pleader,SR.No.98277

Order made in
W.P. (MD) No.17313 of 2017
and W.M.P. (MD) .No.13854 2017
Dated: 30.11.2018

CM

KK/RSK/SAR-2/10.12.2018/3P-9C