

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.23297 of 2018
and W.M.P.No.27180 of 2018

K.G.Kumar

... Petitioner

Vs.

1.The District Collector,
Vellore District, Vellore.

2.The District Revenue Officer,
Vellore District, Vellore.

3.The Revenue Divisional Officer,
Vellore District, Vellore.

4.The Tahsildar,
Walajapet Taluk,
Vellore District.

5.The Block Development Officer,
Walajapet Panchayat Union,
Vellore District, Vellore.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the respondents 1 to 5 to get back the Government Poramboke land (Jallikuzhi) comprising in Survey No.707/1B2 measuring 0.61.0 hectares situated at Vannivedu Village, Walajapet Taluk, Vellore District which was allotted by the 1st respondent for burial ground and permit the petitioner's community people to use their community burial ground comprising in Survey No.825 measuring 20 cents situated at Vannivedu Village, Walajapet Taluk, Vellore District which is earmarked for burial ground leaving behind the present encroachment and consequently direct the respondents 1 to 5 to take initiatives to put up fencing surrounding the burial ground to ensure that the rest of the burial ground for an extent of 15 cents to be remain as its original position as per the revenue record.

For Petitioner : Mr.M.Rajendiran

For Respondents: Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) (R1 to R4)

O R D E R
(Order of the Court made by M.DURAISWAMY,J.)

The petitioner has filed the above Writ Petition as Public Interest Litigation to issue a Writ of mandamus directing the respondents 1 to 5 to get back the Government Poramboke land comprised Survey No.707/1B2 measuring 0.61.0 hectares situated at Vannivedu Village, Walajapet Taluk, Vellore District which was allotted by the 1st respondent for burial ground and permit the petitioner's community people to use their community burial ground comprising in Survey No.825 measuring 20 cents situated at Vannivedu Village, Walajapet Taluk, Vellore District which is earmarked for burial ground leaving behind the present encroachment and consequently direct the respondents 1 to 5 to take initiatives to put up fencing surrounding the burial ground to ensure that the rest of the burial ground for an extent of 25 cents is retained.

2.The petitioner contended that the encroachers had encroached the burial ground, hence, the people are facing difficulties to utilize the burial ground. Further, the petitioner has stated that out of an extent of 1.25 acres earmarked for burial ground, now it has shrunk to 25 cents. That apart, the petitioner also contended that the burial ground is surrounded by tanneries and that they made objections for the burial of dead bodies in the said burial ground. In these circumstances, the petitioner is seeking for removal of the encroachment made in the burial ground.

3.The learned counsel for the petitioner submitted that though the petitioner has sought for removal of encroachment made in the burial ground, it would be suffice to permit the people to bury the dead bodies in the very same burial ground without evicting the encroachers.

4.The 4th respondent viz., the Tahsildar has filed his counter wherein in paragraph - 6 he has stated that he had issued notices under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 to the encroachers and that the encroachers had given a representation to the 1st respondent viz., the District Collector stating that they should not be evicted and be allowed to reside in the said land considering their long occupation of the said land. Considering the representation made by the encroachers, the 1st respondent, by his proceedings dated 24.02.2018, had allotted an alternative land measuring an extent of 0.61.0 hectares in Vannivedu Village about one km from the old burial ground to be used as burial ground in lieu of the encroached burial ground. Further, in

paragraph - 8, the 4th respondent has stated that the petitioner's community are free to perform the customary ceremonies at the memorials located in the old burial ground.

5. Since the 1st respondent has allotted a land for the new burial ground, which is just one km away from the old burial ground and also that the 4th respondent had made it clear that the petitioner's community are free to perform the customary ceremonies at the memorials located in the old burial ground, we are of the view that no further direction is required in this matter. Accordingly, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Vellore District, Vellore.
 2. The District Revenue Officer,
Vellore District, Vellore.
 3. The Revenue Divisional Officer,
Vellore District, Vellore.
 4. The Tahsildar,
Walajapet Taluk,
Vellore District.
 5. The Block Development Officer,
Walajapet Panchayat Union,
Vellore District, Vellore.
- +1 CC to Mr.M.Rajendiran, Advocate sr 2475.
+1 CC to The Govt. Pleader sr 2299.

W.P.No.23297 of 2018
and W.M.P.No.27180 of 2018

KJ(CO)
SP(01/02/2018)