

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.10672 of 2017
and W.M.P.No.11619 of 2017,
W.M.P.Nos.2918 and 15746 of 2020

M.N.Selvam

...Petitioner

Vs

1. The District Collector
Namakkal District, Namakkal.
 2. The District Revenue Officer
Namakkal District, Namakkal.
 3. Tahsildar
Namakkal District, Namakkal.
 4. The Block Development Officer
Pudusathiram, Namakkal District, Namakkal.
 5. Revenue Inspector
Sellappampatty, Namakkal Taluk & District.
 - 6 Vanitha
(R6 Impleaded vide order dated 23/9/2020)
- Respondents ...

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari, calling for the records relating to the impugned order passed by the first respondent in proceedings in N.M.27262/2016/L2 dated 13.03.2017 and quash the same.

For Petitioner	:	Mr.G.Murugendran
For Respondents	:	Mr.R.S.Selvam
1 to 3 & 5	:	Government Advocate
For Respondent-4	:	Mr.K.Sundaramurthy
For Respondent-6	:	Mr.K.Nagendra Prasad

ORDER

This writ petition is heard through Video-Conferencing, on account of the COVID-19 pandemic situation.

2. The petitioner has sought for a writ of certiorari to call for the records relating to the impugned order passed by the first respondent in proceedings in No.N.M.27262/2016/L2 dated 13.03.2017 and quash the same.

3. On 23.09.2020, the learned Government Advocate was directed to verify the genuineness of the documents filed by the sixth respondent and if it is correct, the usage of the balance of the land in the same survey number may be considered and a report to that effect was directed to be filed by the second respondent.

4. In response to the order, the District Revenue Officer, Namakkal has filed a report on 30.09.2020. The report says that the Survey No.104/5, which were originally used for the purpose of burial ground, was transferred to the National Highways. There was no sufficient lands for the burial ground. Hence, a representation was given by the petitioner, M.N.Selvam on 24.10.2016. Based on the representation, a mandamus was sought for in W.P.No.40695 of 2016. On 22.11.2016, a Division Bench of this court, has passed an order, directing the District Collector to pass an order, within a period of three months on the said representation. Accordingly, All notice and sufficient information were given in the Village for converting Survey No.103/3, which is the Government poramboke Karadu, comprising 0.11.5 hectares for the purpose of burial ground and called for any objections from the general public. As there were no objections, a resolution was passed on 22.12.2016 that the Survey No.103/3 be added to the existing burial ground. Accordingly, proceedings of the District Collector in Ni.Mu.No.27262/2016/L2 dated 10.03.2017, transferred the land in Survey No.103/3 for the purpose of the burial ground. The said order was challenged in this Writ Petition by the petitioner.

5. It is reported by the District Revenue Officer that survey Nos.103/2A, 2B, 2C belonged to the petitioner, which is adjacent to the above said burial ground in Survey No.103/3. The report further states that the petitioner has not been cultivating the land. There are no residential tenements in and around the above said burial ground. The petitioner herein has sought for allotting survey No.43/1 as the burial ground.

6. It is pointed out by the learned Government Advocate that the Survey No.43/1 has got an extent of 5.01.0 hectares, which has been classified as a water body. Therefore, there is no possibility of converting Survey No.43/1 as a burial ground.

7. While so, one Vanitha, W/o.Parivallal belonging to the Chellappampatti Village, has sought to implead herself in the above Writ Petition claiming that the said Survey No.103/3 is her patta land. The report of the District Revenue Officer further stated that the Survey No.103/3 is only Arasu Poromboke Karadu, based on the S.L.R. Register of the year 1938, the Settlement Register of the year 1960 and the UDR Register of the year 1987. Besides the said Survey Number is lying vacant and there is no occupancy on the said land. Therefore, the said Vanitha can establish her right over the property by working out her remedies before the civil court. The report also further stated that, on 31.08.2020, there was a resolution passed by the Chellapampatti Panchayat, in which, the villagers have sought for a different site for the purpose of burial ground. When the Block Development Officer, Puduchathiram was enquired, it was stated that the said resolution passed on 31.08.2020 has to be cancelled and decided to continue the burial ground only in Survey No.103/3 and a final decision will be taken in the Special Meeting, that has been arranged on 01.10.2020 (i.e) today. It is open to the petitioner to participate in the said meeting.

8. The District Collector, Namakkal District is specifically directed to record the objections of the petitioner, after affording him an opportunity of personal hearing in this regard. As the meeting is scheduled today, if the District Collector is unable to record the objections of the petitioner, the meeting may be postponed and the petitioner shall be given a notice about the date of the next meeting and decide the same.

9. With the above direction, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

asr/srn

To

1. The District Collector
Namakkal District, Namakkal.
2. The District Revenue Officer
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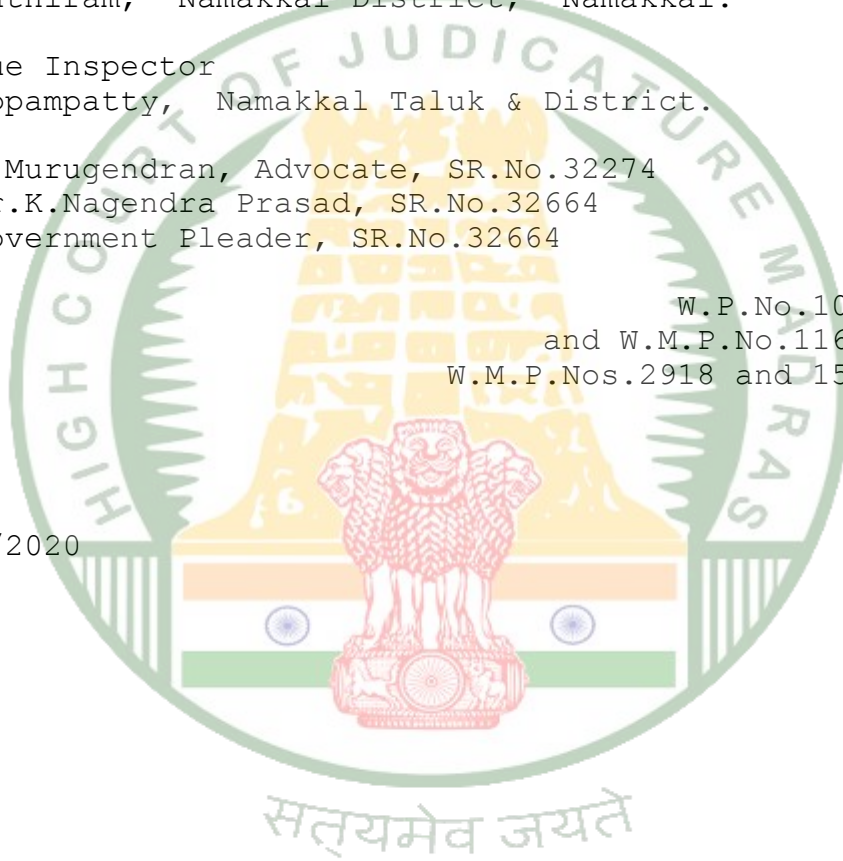
+1cc Mr.G.Murugendran, Advocate, SR.No.32274

+1cc to Mr.K.Nagendra Prasad, SR.No.32664

+1cc to Government Pleader, SR.No.32664

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and W.M.P.No.11619 of 2017,
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RR(CO)
KKV/09/12/2020



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