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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.6312 of 2022 and W.M.P. No.6409 of 2022

S.Ranjeeth Kumar

... Petitioner

vs

1. Government of India,
rep. by Secretary,
Ministry of Commerce and Industry,
Udyog Bhawan, New Delhi.
2. The Petroleum & Explosive
Safety Officer (PESO),
Shastri Bhavan,
No.26, Haddous Road,
Nungambakkam,
Chennai.
3. The District Collector,
Collectorate Building,
Tiruvannamalai District.
4. The District Revenue Officer,
Collectorate Building,
Tiruvannamalai District.
5. The Revenue Divisional Officer,
RDO Office, Arani Taluk,
Tiruvannamalai District.
6. The Divisional Engineer,
Office of Divisional Engineer,
National Highways Department,
Tiruvannamalai District.
7. The Tahsildhar,
Tahsildar Office,
Polur Taluk,
Tiruvannamalai District.



8. The Village Administrative Officer,
VAO Office, Padavedu Village,
Padavedu Post,
Polur Taluk,
Tiruvannamalai District.

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9. Kuppan

10. Settu

11. Madhavi

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the third respondent to consider and pass appropriate orders based on petitioner's representation dated 14.02.2022 addressed regarding the burial ground situate at Survey Nos.269, 398 and 399 for Kesavapuram and Kalikapuram Village, Padavedu Post, Polur Taluk, Tiruvannamalai District, being encroached and attempts being made by the 9th to 11th respondents to put up a petrol bunk in an unauthorised manner.

For Petitioner : Mr.D.Thirumoorthy

For Respondents: Mr.P.G.Santhosh Kumar,
Senior Panel Counsel for R1 & R2

Mr.A.Selvendran,
Special Government Pleader
for R3 to 7

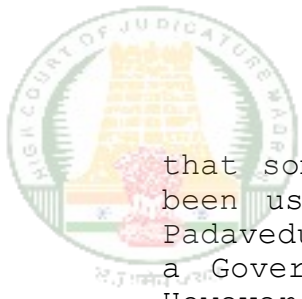
Mr.K.V.Sajeevkumar,
Special Government Pleader for R8

ORDER

[Order of this Court was delivered by T.RAJA, J.]

S.Ranjeeth Kumar, resident of Kesavapuram Village, Padavedu Post, Tiruvannamalai District/the petitioner herein has brought this petition for issuance of writ of Mandamus under Article 226 of the Constitution of India seeking a direction to the District Collector, Collectorate Building, Tiruvannamalai District, the third respondent herein to consider and pass appropriate orders, based on his representation dated 14.02.2022 to remove the encroachment made in the burial ground, covered in Survey Nos.269, 398 and 399, situated at Kesavapuram and Kalikapuram Village, Padavedu Post, Polur Taluk, Tiruvannamalai District.

2.Learned counsel appearing for the petitioner submitted



that some of the people, residing at about 300 residences, have been using the above Survey Nos.398, 399 and 269, situated at Padavedu Village, Polur Taluk, Tiruvannamalai District, which is a Government porombokku land, being used as a burial ground. However, closer to the aforesaid burial ground, the lands, covered in S.Nos.727A/2A and 626A/1A, situated at Padavedu Village, Polur Taluk, Tiruvannamalai District, are owned by respondents 9 and 10 and the 10th respondent has leased out his portion of the above property to the 11th respondent for the purpose of setting up a petrol bunk outlet. Learned counsel appearing for the petitioner further submitted that since respondents 9 to 11 have encroached upon the above lands by causing hindrance to the public by blocking the public road, which leads to the burial ground, the petitioner has given a representation dated 14.02.2022 to the third respondent to take action against respondents 9 to 11 for removal of encroachment. Learned counsel for the petitioner further submitted that as per guidelines set out in Indian Road Congress 12-2009, all on 4 directions, there should be setback space of atleast 35 metres; there should be 1 k.m. distance between the already existing petrol bunk and the petrol bunk, which is to be newly erected and there should be 1 k.m. distance from the National Highways (NH) and the petrol bunk, which is to be newly erected. As there was no response from the official respondents for his representation dated 14.02.2022, the petitioner has been advised to come to this Court.

3.Mr.A.Selvendran, learned Special Government Pleader appearing for respondents 3 to 7, placing on record a written instruction dated 21.03.2022, addressed to him by the Tahsildar, Polur, Tiruvannamalai District, submitted that the prayer made by the petitioner to remove the encroachments from Survey Nos.269, 398 and 399, situated at Kesavapuram and Kalikapuram Village, Padavedu Post, Polur Taluk, Tiruvannamalai District is without any basis for the simple reason that S.Nos.269 and 398 are shown as 'river' and the land covered in S.No.399 is 'Annadeenam'.

4.A perusal of the written instruction dated 21.03.2022 produced by the learned Special Government Pleader appearing for respondents 3 to 7 would show that after survey undertaken by the Tahsildar, it has been found that respondents 9 to 11 have not made any encroachment in S.Nos.269, 398 and 399. Moreover, the patta land covered in S.Nos.626A/1A and 727A/2A clearly shows that one Kuppan and Settu S/o.Pachiyappan are not found encroachers with the land in question and the the petrol bunk is also situated 50 meters away from the burial ground. In addition thereto, it has been mentioned in the written instruction that they have not encroached into the burial ground.



5.It is made clear that respondents 9 to 11 are directed not to interfere with the passage, leading to the burial ground.

6.With the above direction, this writ petition stands disposed of. No costs. Consequently, W.M.P. No.6409 of 2022 stands closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Secretary, Government of India,
Ministry of Commerce and Industry,
Udyog Bhawan, New Delhi.
2. The Petroleum & Explosive
Safety Officer (PESO),
Shastri Bhavan,
No.26, Haddous Road,
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3. The District Collector,
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Tahsildar Office,
Polur Taluk,
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8. The Village Administrative Officer,
VAO Office, Padavedu Village,
Padavedu Post,
Polur Taluk,
Tiruvannamalai District.

+1cc to Mr.S.P. Arthi, Advocate, S.R.No.19320
+1cc to the Government Pleader, S.R.No.20033,19600

W.P.No.6312 of 2022 and W.M.P. No.6409 of 2022

SV(CO)
CT 08/04/2022