

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.8328 of 2022

And

W.M.P.Nos.8303 and 8304 of 2022

Periyannan

... Petitioner

Vs.

- 1.The Secretary to the Government,
Revenue Department,
Secretariat,
Chennai – 600 009.
- 2.The District Collector,
District Collectorate Office,
Salem.
- 3.The District Revenue Officer,
Collectorate Campus,
Salem.
- 4.The Revenue Divisional Officer,
Attur,
Salem District – 636 102.
- 5.The Tahsildar,
Thalaivasal Taluk,
Salem District – 636 102.
- 6.The Superintendent of Police
Salem District Salem.

7.The Deputy Superintendent of Police,
Attur,
Salem District.

8.The Inspector of Police,
Thalaivasal Police Station,
Salem District.

9.Palaniammal

10.Rajendran

11.Raman

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of impugned proceedings in Na.Ka.4432/2021/A2 dated 21.02.2022 issued by the fourth respondent and quash the same and consequently to direct the 4th and 5th respondent to dig out the body from the petitioner's land in S.No.5/1E measuring 1 Ace situated at Unathur Village, Thalaivasal Taluk, Salem District.

For Petitioner : M/s.S.Vinodha

For Respondents : Mr.V.Veluchamy
Additional Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of

Writ of Certiorarified Mandamus to call for the records of impugned proceedings in Na.Ka.4432/2021/A2 dated 21.02.2022 issued by the fourth respondent and to quash the same and to consequently to direct the respondents 4 and 5 to dig out the body from the petitioner's land in S.No.5/1E measuring 1 Ace situated at Unathur Village, Thalaivasal Taluk, Salem District.

2.The case of the petitioner is that the lands in S.Nos.1/2A, 2, 3/1, 4/2B, 5/1, 6/1, 7/2A, 8/2A, 149, 335/1, 335/2, 150/2, 151, 333 measuring 120 acres situated at Unathur Village, Thalaivasal Taluk, Salem District were allotted to 22 Adidravidar people vide G.O.Ms.No.3240, dated 20.09.1962 and during the year 2002, the land colonization society was round up and 120 acres were classified as Tharису, however, possession was with the allottees. Thereafter, some of the allottees handed over the land to the other community people by way of un-registered sale deed.

3.The further case of the petitioner is that the land in S.No.5/1E an extent of 3 acres owned by one Karuppan was taken by Sadaiya Gounder @ Thattakarya Periyakarupasamy with a promise to return the land as and when required. Thereafter, the said Sadaiya Gounder

sold one acre of land to Pichanan and two acres of land to Perumal/ his sons. Thereafter, the petitioner's wife bought the subject property from Pichanan during the year 2013. The said Pichanan requested to allow him to stay in the subject property till he found out other place and on 19.08.2021, the said Pichannan died due to age factor.

4.The further case of the petitioner is that the body of the said Pichannan was buried in the subject property. The petitioner's efforts to stop burying the body of the said Pichannan in the subject property went in vein. Hence, the petitioner's son made complaint to the fourth respondent seeking to dig out the dead body from the subject property, however, the impugned order came to be issued. Hence, this writ petition.

5.The learned counsel appearing for the petitioner submitted that the subject property is Government Poromboke land and allowing the private persons body to be buried in the said land is not sustainable one.

6.Per contra, the fourth respondent / the Revenue Divisional Officer, Attur, Salem District appeared before this Court today

(26.04.2022) and submitted that the subject land has been classified as Tharisu and it was under the possession and enjoyment of the deceased Pichannan and after his death, his body was buried in the subject property as per the wish tendered by him to his family members while he was alive. The fourth respondent further submitted that the body was buried ten months before and it is not possible to dig out the body now.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.The facts in the present case is not in dispute. Admittedly, the lands in S.Nos.1/2A, 2, 3/1, 4/2B, 5/1, 6/1, 7/2A, 8/2A, 149, 335/1, 335/2, 150/2, 151, 333 measuring 120 acres situated at Unathur Village, Thalaivasal Taluk, Salem District were allotted to 22 Adidravidar people vide G.O.Ms.No.3240, dated 20.09.1962 and during the year 2002, the land colonization society was round up and 120 acres were classified as Tharisu, however, possession was with the allottees. Thereafter, some of the allottees handed over the land to the other community people by way of un-registered sale deed.

9.Admittedly, the subject property is not a burial ground and burying the body other than the burial ground is prohibited by the respective enactments and it is not sustainable one. However, after a lapse of ten months, the buried body cannot be removed from the subject property since it would be of dis-respect to the departed soul. Hence, this Court is not inclined to interfere with the impugned order, however, this Court directs the official respondents not to allow any dead body to be buried in any other land other than the burial ground.

10.With the above observation, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

26.04.2022

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

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