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W.P.No.28178 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28178 of 2016

and

W.M.P.no.24315 of 2016

1. P. Sagadevan

2. G. Dharmalingam

3. S. Rajesh

4. N. Sundaram

...Petitioners

..Vs..

1. The District Collector,
Vellore District, Vellore

2. Revenue Divisional Officer,
Vellore District, Vellore.

3. Tahsildhar, Katpadi, Vellore District

4. Chinnakarasamangalam Sunnath,
Val Jamath by its patel and Muthavalli,
Managing Trustee P. Khader Sheridh,
Karasamangalam Muslim Street,
Karasamangalam Latheri Post,
Katpadi Taluk, Vellore District.

5. Inspector of Police Station,



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Latheri, Vellore District.

...Respondents

WEB COURT

PRAYER : Petition filed Under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents 1 to 3 forbearing the 4th respondent or any other persons and their men or subordinate from interfering and putting up fencing and erecting compound wall on the wester half S.No.263/1, 0.32.5 Karsamangalam Village, Katpadi Taluk, Vellore District and grant such other relief.

For Petitioner : Mr.R. T. Sundari and G.Kadhiresan

For Respondents 1 to 3 : Mr.U. Baranidharan
Additional Government Pleader

For Respondent 4 : M.M. Abdul Majeed

For Respondent 5 : P. Rajarajeswari
Government Advocate

ORDER

This writ petition is filed seeking for the issuance of Writ of Mandamus directing the respondents 1 to 3 forbearing the 4th respondent or any other persons and their men or subordinate from interfering and putting up fencing and erecting compound wall on the wester half S.No.263/1, 0.32.5 Karsamangalam Village, Katpadi Taluk, Vellore District .



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2. The facts of the case is that there was dispute between Muslims and Hindus with regard to burying of the dead body in the subject property and the Revenue Divisional Officer passed an order on 30.09.1994 wherein it was stated that with regard to Survey No. 263 it was subdivided into two portions and a portion was used as burial ground for Muslims and another portion was used as burial ground for Hindus. However the same was quashed by this Court in Crl.R.C.No.565 of 1994 on 15.12.1997. While so the 4th respondent is putting up fencing and erecting compound wall to describe their portion of the land. Aggrieved over the same the petitioner has filed this petitioner.

3. The learned counsel for the petitioner would submit that earlier the fourth respondent filed a suit in O.S.No.381 of 2003 on the file of Sub-Court, Vellore and the same decreed on 03.04.2006 in their favour against which the petitioner preferred in Appeal in A.S.No.712 of 2008 before this Court and the same was decided on 09.08.2011 wherein declaration of title was dismissed and granted an order of injunction not to interfere with



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possession of Muslims. Even then the 4th respondent has no reliance and trying to describe the area by way of putting up a compound wall is not sustainable. Hence prays this Court for appropriate orders.

4. Per contra the learned counsel appearing for the 4th respondent would submit that already the subject land was permitted to be used by Muslims by way of the Orders passed by this Court and the Lower Court. He further submits in order to prevent others from interfering in their subject property they are erecting a compound wall without causing any disturbance to the petitioners and public. Hence prays this Court to dismiss this petition.

5. Admittedly the facts of the case are not in dispute that there was a burial ground in the subject area and and there was dispute between the petitioner and the 4th respondent passed an order on 30.09.1994 describing the extent of lands to be used by the Hindus and Muslims and the said order was quashed by this Court in Crl.R.C.No.565 of 1994 and the said issue was agitated before the Civil Court by filing O.S.No.381 of 2003 and before this Court in A.S.No.712 of 2008 wherein it has held that the 4th



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respondent have every right to put up a compound wall in the survey

Number 263.

6. In view of the above it is made clear that the petitioner has no right to interfere with the rights granted to the 4th respondent and the prayer sought for by the petitioner not to erect the compound wall in the subject area cannot be granted. Accordingly this petition is dismissed. No order as to costs. Consequently the connected miscellaneous petition is closed. However the petitioner is granted liberty to work out the remedy in the manner known to law.

09.11.2022

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
smn

To

1. The District Collector,
Vellore District, Vellore
2. Revenue Divisional Officer,
Vellore District, Vellore.
3. Tahsildhar, Katpadi, Vellore District



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M.DHANDAPANI, J.

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