



WEB COPY



W.P. No. 14739 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.11.2022

Pronounced on : 15.12.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.P. No. 14739 of 2022

and

W.M.P. Nos. 13926 & 17440 of 2022

Mrs. Kanmani,
W/o. Kodakaran

... Petitioner

Versus

1. Secretary to Government
State of Tamil Nadu,
Department of Adi-Dravidar Welfare,
St.George Fort, Secretariat,
Chennai-600 009.
2. The Collector,
Dharmapuri District,
Dharmapuri-636 705.
3. The District Revenue Officer,
Dharmapuri District,
Dharmapuri-636 705.



W.P. No. 14739 of 2022

4. The Revenue Divisional Officer,
Dharmapuri District,
Dharmapuri-636 701.
5. The Tahsildar,
Nallampalli Taluk,
Dharmapuri District.
6. The Special Tahsildar
Adi Dravidar Welfare Department,
Dharmapuri District.
7. The Block Development Officer,
Nallampalli Taluk,
Dharmapuri District.
8. The Village Administrative Officer,
Maniyathahalli,
Nallampalli Taluk,
Dharmapuri District.
9. The President,
Maniyathahalli Panchayath,
Nallampalli Taluk
Dharmapuri District.

... Respondents

Prayer : Writ Petition filed under Art. 226 of Constitution of India, praying to issue a Writ of Mandamus directing the respondents to consider the representation dated 06.05.2022 sent by the petitioner for laying the road in S.No.188/1C2, 188/2B (164.6 meters in length and 6 meters in



W.P. No. 14739 of 2022

breadth) Maniadahalli Village, Nallampalli Taluk, Dharmapuri District so as to reach the burial ground allotted to Adi-Dravidar community in Survey No.187/2B in Maniyadahalli, Nallampalli Taluk, Dharmapuri District with a stipulated time.

For Petitioner : Mr.C.Umashankar

For Respondents : Mrs. R.Anitha,
Special Govt. Pleader for
R1 to 6 & 8

Mr.P.Muthukumar,
State Govt. Pleader for R7 & R9

ORDER

(delivered by **T.V.THAMILSELVI, J.**)

This Writ Petition has been filed seeking a direction directing the respondents to consider the representation dated 06.05.2022 sent by the petitioner for laying the road in S.No.188/1C2, 188/2B, Maniadahalli Village, Nallampalli Taluk, Dharmapuri District so as to reach the burial ground allotted to Adi-Dravidar community in Survey No.187/2B in the said village within a time fixed by this Court.



W.P. No. 14739 of 2022

2. The contention of the petitioner is that she is the resident of Maniadahalli Village, where more than 400 families are living and most of them belongs to adi-dravidar community and for them, a burial ground is situated 1 km. away from their village, which was allotted by the Government of Tamil Nadu in the year 1984 in Survey No.187/2B. To reach the said burial ground, a pathway was also allotted in S.No.188/1C2, 188/2B to an extent of 6 meters in breadth and 164.6 meter in length. Further contention of the petitioner is that though there is a burial ground for them, there is no proper pathway to reach the said burial ground and there is also encroachment in the said allotted pathway. In spite of their representations, the encroachments were not removed and if at all, no proper road is laid down, the purpose of which the burial ground allotted to the said community would be lost. Therefore, the petitioner prayed to direct the respondents to remove the encroachment in the pathway in Survey Nos.188/1C2, 188/2B and to restore the pathway.

3. As per the counter filed by the 6th respondent, he denied the allegations leveled by the petitioner against the respondents. He would



W.P. No. 14739 of 2022

further submit that there exists no separate burial ground for each community in the Maniyathahalli revenue village. He would submit that there were two burial grounds in the village and later, without any order of Government, segregated one to the burial of the common communities and the above mentioned cemetery to the Adi-dravidar welfare people. Further, he would submit that the petitioner owns patta lands in Survey No.192/1 and 204/7 by virtue of patta No. 6138 situated at Maniyathahalli village, which has a total extent of 0.98.00 hectare or 2 acres 42 cents, which is worth of Rs.2.5 crores based on the market value. In fact, the present Writ Petition was filed by the petitioner herein to secure her above mentioned patta lands from other people belonging to Adi-dravidar community. He would also submit that the allegations in para 5 to 9 of the Writ Petition is unknown to the official respondents herein as the same is beyond the knowledge of respondents herein.

4. The 6th respondent would further content that the petitioner herein made her first representation only on 06.05.2022 (came to be received by the respondents on 09.05.2022) and on 02.06.2022 to remove the



W.P. No. 14739 of 2022

encroachment in the subject lands. Based on her representation, the 6th respondent along with 5th and 8th respondents and other revenue officials made their field inspection on 24.06.2022 and found certain crucial findings related to the subject lands herein :-

- (i) It was found that the subject lands were left unutilised by the villagers for the past 60 years and the same came to be encroached by the people belonging to the families of J.P.Nanjappan and J.P.Raman. It was further found that the above mentioned people had filed the original suit in O.S.No.359 of 1986 on the file of District Munsif Court at Dharmapuri and obtained an order of permanent injunction against the villagers forbearing them from entering the subject lands.
- (ii) It was further found that in fact, the petitioner herein had filed the present Writ Petition for her own benefit, as the villagers are using the lands of the petitioner comprised in Survey No.192 and 204, to reach the cemetery. The villagers have been passing through the above lands for the time immemorial to reach the cemetery. The erstwhile owners of the above survey numbers did not raise any objections and allowed the villagers to pass through the survey numbers to reach the cemetery, now belonging to the petitioner herein.



- (iii) During the Covid pandemic period, the petitioner herein had constructed a gate and a compound wall surrounding her lands and objected the movement of villagers to reach the cemetery.
- (iv) During the field inspection, it was also advised to the villagers not to use the patta lands belonging to the petitioner herein to reach the Cemetery. It was also found during inspection that three people had encroached the subject lands and they were also advised to remove the encroachments at the earliest.

5. Furthermore, the 6th respondent would submit that the survey and the identification of encroachments on the subject lands were conducted twice, i.e. on 16.06.2022 and 24.06.2022 respectively. He would submit that he has also sent the above findings through his letter Na.Ka.No.96/2022/A2 dated 24.06.2022 to the 5th respondent to remove the encroachers from the subject lands. In lieu of the same, the 5th respondent through the Revenue Inspector of the Palayampudhur Revenue Firka issued show cause notice dated 27.06.2022 to the encroachers under Sec.7 of the Tamil Nadu Land Encroachment Act, 1905, to remove the encroachers from the subject lands. The encroacher No.3 alone accepted the above mentioned show cause



W.P. No. 14739 of 2022

notice and requested for a week time to remove her encroachments. He would further submit that the encroacher Nos.1 and 2 refused to vacate the subject lands and threatens the official, who went to issue show cause notice to them.

6. The learned Special Government Pleader appearing for respondents 1 to 6 and 8 would submit that the lands in Survey No.188/1C2, with an extent of 0.10.00 hectares and in Survey No.188/2B, with an extent of 0.01.50 hectares in Maniadahalli village were classified as pathway for the burial ground belong to the petitioner's community, but nearby the said pathway, there is a Survey No.291/1A10, an extent of 0.17.00 hectares was allotted to the hostel for Backward class welfare students, but no such hostel is running as on date. On the other hand, the said hostel for the backward class welfare students is running at Ajjipatti Village, Nallampalli Taluk. Therefore, the authorities concerned are inclined to form a pathway to reach the burial ground situated in Survey No.187/2B by forming proper pathway through Survey No.188/2B, 188/1C2 and also in S.No.291/1A10.



W.P. No. 14739 of 2022

7. Heard and considered submissions of both learned counsel for petitioner and learned Special Government Pleader appearing for respondents 1 to 6 and 8 and perused the records.

8. Considering submissions of learned Special Government Pleader, this Court is inclined to direct the 6th respondent to remove any encroachment in the said pathway and also laid down proper pathway from the existing Village Grama Panchayat tar road upto burial ground in Survey No.187/2B through Survey No.188/2B, 188/1C2 and also in Survey No.291/1A10 as shown in the plan drawn by Sub-Inspector of Survey submitted by the 6th respondent along with their reply. The said exercise shall be completed by the respondents as expeditiously as possible in accordance with law. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Writ Miscellaneous Petition in W.M.P. No. 13926 of 2022 is closed.

9. So far as W.M.P. No.17440 of 2022 is concerned, the relief claimed in this Writ Petition seeking to remove encroachment in the said



W.P. No. 14739 of 2022

pathway from the existing Village Grama Panchayat upto burial ground, which was already demarcated as a pathway for burial ground in the revenue records. Hence, there is no necessity to implead the proposed respondent as party respondent in this Writ Petition. Accordingly, Writ Miscellaneous Petition in W.M.P. No.17440 of 2022 is dismissed.

(D.K.K., J) (T.V.T.S.J., J)

15.12.2022

Speaking order/Non speaking order

Index: Yes/No

Internet: Yes/No

rpp

To

1. Secretary to Government
State of Tamil Nadu,
Department of Adi-Dravidar Welfare,
St.George Fort, Secretariat,
Chennai-600 009.
2. The Collector,
Dharmapuri District,
Dharmapuri-636 705.
3. The District Revenue Officer,
Dharmapuri District,
Dharmapuri-636 705.

10/12



W.P. No. 14739 of 2022

WEB COP

4. The Revenue Divisional Officer,
Dharmapuri District,
Dharmapuri-636 701.
5. The Tahsildar,
Nallampalli Taluk,
Dharmapuri District.
6. The Special Tahsildar
Adi Dravidar Welfare Department,
Dharmapuri District.
7. The Block Development Officer,
Nallampalli Taluk,
Dharmapuri District.
8. The Village Administrative Officer,
Maniyathahalli,
Nallampalli Taluk,
Dharmapuri District.
9. The President,
Maniyathahalli Panchayath,
Nallampalli Taluk
Dharmapuri District.
10. The Public Prosecutor,
High Court, Madras.



WEB COPY



W.P. No. 14739 of 2022

**D.KRISHNAKUMAR, J.,
AND
T.V.THAMILSELVI, J.**

rpp

W.P. No. 14739 of 2022

15.12.2022