

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.27523 OF 2014

Muslim Jamath Committee Velachery,
Rep. By its Secretary,
M.Siraj Ahmed,
798, 44th Lane TNHB,
Velachery, Chennai - 42.

... Petitioner

.Vs.

1. The Corporation of Chennai,
Rep. By its Commissioner,
Ripon Building, Chennai

2. The District Collector,
Chennai District, 4th Floor,
Singaravelar Maligai,
Rajaji Salai, Chennai.

... Respondents

(R2 - Suo Moto implead vide Order dated
07/06/2022 in W.P.No.27523 of 2014)

PRAYER:-

Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to consider and pass orders on the representation of the petitioner dated 14.08.2014 seeking implementation of the resolution dated 22.05.2013 by handing over the burial ground to the petitioner.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.S.Silambanan
Additional Advocate General
Assisted by
Mr.R.Gopinath for R1

Mr.U.Baranidharan
Additional Government Pleader
For R2

O R D E R

The District Collector, Chennai District, 4th Floor, Singaravelar Maligai, Rajaji Salai, Chennai, is suo-motu impleaded as the 2nd respondent in this writ petition and the Registry is directed to carryout the necessary amendment in the cause title.

2. This writ petition has been filed by the Muslim Jamath Committee for the issue of writ of Mandamus directing the 1st respondent to consider the representation made by them on 14.08.2014, wherein the petitioner is seeking for the implementation of the resolution dated 22.05.2013 passed by the 1st respondent.

3. The petitioner had a grievance that there was no cremation/burial ground for the Muslims anywhere between Adyar to Madipakkam and they had to travel long distance to Alandur, Royapettah or Nandanam to conduct the last rites of the deceased Muslims. Therefore, the petitioner had made a request to the 1st respondent for allotment of a burial ground and the 1st respondent through a resolution dated 22.05.2013, agreed to allot an extent of 50 cents of land at Velachery which was identified. When steps were taken to prepare the identified place, there was some protest from persons belonging to other religions and they created a picture as if there will be a law and order problem. In view of the same, there was no progress inspite of the identification of a property which was agreed to be used as a burial ground for the Muslims.

4. The petitioner left with no other option made a representation to the 1st respondent on 14.08.2014, requesting to implement the resolution dated 22.05.2013 and to establish the burial ground. Since this representation was not acted upon, the present writ petition has been filed before this Court seeking for appropriate directions.

5. When the matter was taken up for hearing during the previous occasions, the learned counsel who was appearing for the petitioner informed this Court that he has already given change of vakalat and hence, requested this Court to remove his name. Even though the matter was adjourned twice thereafter, no counsel has filed vakalat on behalf of the petitioner.

6. Considering the limited scope of the writ petition and upon hearing the submissions of Mr.S.Silambanan, learned Additional Advocate General appearing on behalf of the 1st respondent, this Court deems it fit to proceed further in this writ petition and issue appropriate directions. Since the

District Collector was considered to be a necessary party in this writ petition, the District Collector, Chennai District was also suo-motu added as the 2nd respondent.

7. The 1st respondent has filed a counter affidavit in this case. It is seen from the counter that pursuant to the resolution dated 22.05.2013, steps were taken to fill up the low lying pond and to establish a burial ground for the usage of Muslim community. While the work was in progress, there was a protest and it started gaining a communal colour which resulted in unrest in the said locality. A writ petition was also filed in W.P.No.30345 of 2013 impugning the resolution passed by the 1st respondent and this writ petition came to be dismissed as withdrawn. Yet another writ petition was filed in WP No.30984 of 2014 by the petitioner with a similar prayer and that writ petition was also disposed of by issuing certain directions. The sum and substance of the counter filed by the 1st respondent is that even though a place was identified to create a burial ground for the Muslim community, the 1st respondent was not able to proceed further due to the communal tension.

8. When the matter was taken up for hearing today, the learned Additional Advocate General appearing on behalf of the 1st respondent submitted that the 1st respondent has been taking effective steps to identify some other place in order to establish a burial ground for the Muslim community. In order to substantiate the said submission, the learned Additional Advocate General brought to the notice of this Court the communication made by the Commissioner of Corporation of Chennai dated 07.03.2022 to the District Collector, Chennai District. It is seen from this communication that the 1st respondent had acted upon the instructions of the learned Additional Advocate General and the 1st respondent has requested the 2nd respondent to identify an alternate site in Pallikaranai or sholinganallur or Perungudi, since the Tahsildar, Velacherry had already informed that there are no space available in Velacherry Taluk. This request made by the 1st respondent is now pending before the 2nd respondent.

9. The learned Additional Advocate General submitted that all steps are being taken to identify a site and the matter is being followed up with the 2nd respondent. The learned Additional Advocate General therefore requested this Court to give some time to enable the 2nd respondent to identify a site to establish a burial ground for the Muslim community.

10. Taking into consideration the facts and circumstances of the case and considering the fact that the Muslim community requires a exclusive burial ground so that they don't travel long distance for conducting the last rites, this Court deems it

fit to issue appropriate directions to the 2nd respondent to identify a site as per the request made by the 1st respondent through communication dated 07.03.2022. In view of the above, there shall be a direction to the 2nd respondent to immediately act upon the communication dated 07.03.2022 made by the 1st respondent and identify a site in the places suggested by the 1st respondent in order to establish a burial ground for the Muslim community. This process shall be completed by the 2nd respondent within a period of four months from the date of receipt of the copy of this order. The 1st respondent shall issue a fresh communication to the 2nd respondent and the 2nd respondent shall act upon the same and take necessary steps.

11. This writ petition is disposed of with the above directions. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
The Corporation of Chennai,
Ripon Building, Chennai.
2. The District Collector,
Chennai District, 4th Floor,
Singaravelar Maligai,
Rajaji Salai, Chennai.

+1cc to Mr.R.Gopinath, Advocate, S.R.No.32388
+1cc to the Government Pleader, S.R.No.33074

W.P.NO.27523 OF 2014

RSI(CO)
PBS/13/07/2022