



W.P.No. 28089 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 20.10.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No. 28089 of 2022

V. Suran

.. Petitioner

Versus

1. The District Collector
Thirupathur District, Thirupathur.
2. The Tahsildar
Natrampalli Taluk
Natrampalli, Thirupathur District.
3. The Village Administrative Officer
Patchur Village
Natrampalli Taluk
Thirupathur District.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 01.08.2022 and direct the respondents to remove the caption of burial ground comprised in S.No.378, Patchur Revenue Village, Natrampalli Taluk, Thirupathur District in all Revenue Records.



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For Petitioner : Mr.OM.Sai Ram

For Respondents : Mr.U. Bharanidharan, AGP

ORDER

This writ petition is filed seeking for a direction to the respondents to consider the petitioner's representation dated 01.08.2022 and direct the respondents to remove the caption of burial ground comprised in Survey No.378, Patchur Revenue Village, Natrampalli Taluk, Thirupathur District in all Revenue Records.

2. It is the case of the petitioner is that he is residing at Survey No.379/14, Patchur Village and adjacent land at Survey No.378, Patchur Revenue Village, is notified as water source area. The villagers of the adjacent villages, including the petitioner are using the property in S.Nos.372 and 373 as burial ground. However, ignoring the fact that the land in S. No.378 is a water body, the third respondent/VAO directed the villagers to use S.No.378 as burial ground. Though time immemorial, the residents of the village are using S. Nos.372 and 373 as burial ground and the act of the third respondent has put the entire village in shock. It is the



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further case of the petitioner that mere entry in the revenue records without any usage, will not confer any right on the respondents to convert the water body as burial ground. Further the entire villagers are using S.Nos.372 and 373 as burial ground and all facilities towards usage thereof have been set up by the people in the said lands. In this regard, the petitioner made a representation dated 11.10.2021 to the second respondent/Tahsildar, Natrampalli Taluk, stating that the S.No.378 is being used as water body and a check dam is also in existence in the said survey number, and, therefore, the said land cannot be used for burial purposes nor could it be converted as a burial ground and sought the intervention of the second respondent. However, no action has been taken on the said representation by the second respondent till date resulting in the filing of the present petition.

3. The learned counsel appearing for the petitioner contended that the property comprised in S.No.378 is a water body, though erroneously classified as "burial ground" in the revenue records. It is the submission of the learned counsel that merely because a wrong classification has been given to a land, which is a water body and source of sustenance for the



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people in the village, the act of the third respondent to convert the said land as burial ground is wholly illegal and arbitrary and the representation of the petitioner in this regard to the second respondent has not been considered till date. Therefore, direction is sought for by the petitioner to the second respondent to pass orders on the representation of the petitioner.

4. The learned Additional Government Pleader appearing for the respondents countered the contentions of the petitioner and submitted that the lands in S. No.378 has neither been classified as "Water poramboke" or "burial ground" in the 'A' Register maintained by the third respondent and such being the case, the grievance of the petitioner to convert the classification of the land in S. No.378 as "water body" is wholly impermissible. Merely because the petitioners and other villages have been using the said lands as a water source would not be a ground to reclassify the said lands as water body and, accordingly, prays for dismissal of the writ petition.

5. This Court gave its anxious consideration to the submissions



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advanced by the learned counsel on either side and perused the materials available on record.

6. It is the stand of the petitioner that the lands in S. No.378 is being used as a water body by the petitioner as well as other persons in his village and has been in continuous use as such and, therefore, the said land has to be reclassified as water body and necessary entry should be reflected in the 'A' register to show the said land in S. No.378 as a water body. However, to substantiate the aforesaid contention, no material has been placed by the petitioner to show that the said land has been classified as a 'water body' at any point of time. Equally, it is the stand of the respondents that the said lands in S. No.378 has also not been classified as 'burial ground' in the 'A' register. The copy of the 'A' register placed by the petitioner shows that the said land carries both the classification of "Ooni" as well as "Burial Ground". That being the factual position, without proper demarcation of the land, the stand of the petitioner for consideration of his representation by the second respondent for classifying the land as "water source" does not merit acceptance. Merely because the petitioner has given a representation to the second respondent



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would not be a ground to receive a response as it is not the duty of the second respondent to respond to all the representations so long as there are no materials to either weigh or outweigh the claim made by either the petitioner or the respondents. In the case on hand, as aforesaid, there is no material to show the exact demarcated classification of the land to be either a water source or a burial ground and that being the case, the prayer of the petitioner to reclassify the land in S. No.378 specifically as a water source cannot be accepted.

7. Further, it is borne out from the affidavit filed by the petitioner that he is filing the petition on his behalf and also on behalf of the entire residents of the village. However, no material has been placed to show the power given by the villagers to the petitioner to file the petition on their behalf as well. If at all the petitioner has any grievance of this nature, the course open would be to file a public interest litigation, showing through documentary materials that the land, which is the subject matter of the present petition is a water body, which cannot be converted. However, as aforesaid, there is no iota of material to substantiate the stand of the petitioner and in such a backdrop, the stand of the petitioner that he is



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filing the present petition in a fiduciary capacity representing the interest of a larger group of people is wholly impermissible. Therefore, the prayer sought for by the petitioner, even for consideration of his representation by the second respondent cannot be granted as it would be nothing but an abuse of process of law. Therefore, no affirmative direction can be issued in favour of the petitioner.

8. Accordingly, for the reasons aforesaid, this writ petition fails and the same is dismissed. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes / No
msm/GLN



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To
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M.DHANDAPANI, J.

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