

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.09.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.6223 of 2013

and

M.P(MD)No.1 of 2013

Ramanathan

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.
- 3.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.
- 4.The Block Development Officer,
Manamadurai Panchayat Union,
Manamadurai,
Sivagangai District.
- 5.The President,
Seikalathur Village Panchayat,
Manamadurai Union,
Sivagangai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to remove the Burial Ground constructed by the fifth respondent in the petitioner's land situated in Survey No.208/19 of Manampakki Village Group, Manamadurai Taluk, Sivagangai District and declare the fifth respondent is disqualified for being a president of Seikalathur Village Panchayat, Sivagangai District.

For Petitioner	: Mr.V.Kannan
For R1 – R3	: Mr.M.Linga Durai
	Special Government Pleader
For R4 & R5	: Mr.R.Anandharaj

ORDER

The present writ petition has been filed directing the first respondent to remove the burial ground constructed by the fifth respondent in the petitioner's patta land in Survey No.208/19 of Manampakki Village Group, Manamadurai Taluk, Sivagangai District. The petitioner has further sought for a declaration that the fifth respondent is disqualified for being a President of Seikalathur Village Panchayat, Sivagangai District.

2. As far as the prayer regarding declaring the disqualification of the fifth respondent is concerned, the tenure of the fifth respondent is over and no further orders can be passed.

3. Pending writ petition, this Court has directed the third respondent to conduct a survey in the presence of the petitioner and others to find out whether any portion of the patta land belonging to the petitioner has been encroached and a graveyard has been constructed. Pursuant to the orders of this Court, a survey has been conducted by the third respondent and a report has been submitted by the third respondent to the fourth respondent on 10.09.2022. A perusal of the report indicates that the private patta land, to an extent of 2.5 cents in Survey No.208/19 has been encroached upon and a Graveyard has been created by the fifth respondent herein.

4. In view of the above said report, this Court finds that the respondent authorities have utilised the private patta land of the writ petitioner for creation of graveyard without resorting to acquisition proceedings.

5. The learned Special Government Pleader appearing for the official respondents had contended that instead of demolishing the encroached portion and handing it over to the writ petitioner, the authorities may be granted to proceed with the acquisition proceedings.

6. In view of the above said facts, this Court passes the following order:

(i) The official respondents are at liberty to initiate acquisition proceedings for acquiring the encroached portion of the petitioner's patta land.

(ii) In case, if the acquisition proceedings are not initiated on or before 31.03.2023, the encroached portion shall be handed over to the writ petitioner after removing the construction therein.

7. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

12.09.2022

Index : Yes / No
Internet : Yes / No

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To

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Sivagangai,
Sivagangai District.
- 3.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.

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R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)No.6223 of 2013

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