



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P (MD)No.3570 of 2022

Mohammed Ali

... Petitioner

Vs

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Dindigul District.

2.The Inspector of Police,
Palani Town Police Station,
Dindigul District.

3.B.Swaminathan

4.N.Kanagaraaj

5.M.Jegan

... Respondents

(RR 3 to 5 were impleaded vide order dated 18.03.2022
made in W.M.P(MD)No.3660 of 2022)

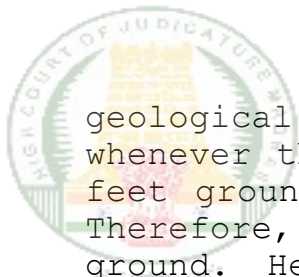
PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to provide adequate police protection to petitioner's Pallivasal people and their workmen and agents for level the surface of the burial ground belongs to Pallivasal by considering his representation, dated 25.01.2022.

For Petitioner	:	Mr.S.M.A.Jinnah
For RR 1 & 2	:	Mr.Thanga Aravindh
		Government Advocate (Crl. Side)
For RR 3 to 5	:	Mr.S.Karthik

ORDER

This Writ Petition has been filed seeking for a direction, directing the second respondent to provide adequate police protection to the petitioner and his men at the time of levelling the surface of the burial ground belongs to Pallivasal by considering his representation, dated 25.01.2022.

2.The case of the petitioner is that the petitioner is the Head of Palani Town Muslim Dharma Paripalana Pallivasal. The said pallivasal has separate burial ground and the same was allotted by Palani Municipality in the year 1939 itself comprised in Survey No.1203/3, Kamarajar 2nd Ward, Palani, Dindigul District. The committee of the said Pallivasal constructed compound wall and it has been peacefully used by its members. While being so, in the burial ground, the water level has been gradually increased due to



geological change in the Earth and continuous rain. Therefore, whenever they dig up a bit to bury the dead bodies, within a short feet ground water is coming out and lacking in the burial ground. Therefore, they are not able to bury the dead bodies in the burial ground. Hence, the committee approached the concerned officials including the Palani Municipality to upgrade the surface of burial ground for four feet in order to fill up the additional sand. The said request was accepted by the Palani Municipality and granted permission by the proceedings, dated 30.12.2021 in Na.Ka.En.3645/2021/e1. Accordingly, the petitioner also obtained from the Tamil Nadu Wakf Board. When the petitioner's members have been doing their work to fill up the burial ground by sand, the respondents 3 to 5 herein objected their work and waylaid the lorries which loaded sand and also made life threat to the drivers and labourers in the burial ground.

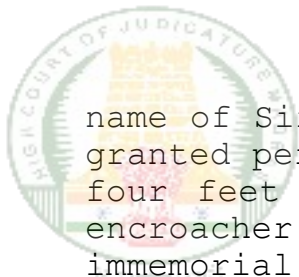
3. According to the respondents 3 to 5 herein, the land comprised in S.F.No.1203 in Palani Town is classified as 'Sirunaickenkulam Tank', which is under the control of Public Works Department, Palani. It is the water source of Palani Town and nearby Village. In fact, they also filed a Writ Petition before this Court in W.P(MD)No.3635 of 2017 for removal of encroachment in the said Tank and by an order, dated 15.11.2019, this Court directed the concerned officials to remove the encroachments. In this regard, already there was dispute between the petitioner and the respondents 3 to 5 herein and the same was referred under Section 145 of Cr.P.C before the Revenue Divisional Officer. The Sub Divisional Magistrate Cum Sub Collector passed an order, dated 01.12.2016. The said proceedings in Na.Ka.No.6285/2016/A7, dated 01.12.2016 was challenged before this Court in CrI.R.C(MD)No.840 of 2016 by the petitioner herein. Therefore, the petitioner, without obtaining any proper planning permission, constructed the Mosque nearby Kaliyamm Temple in the poramboke land. Hence they are objecting the action of the petitioner herein.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 to 5.

5. In this regard, this Court called for the records from the Revenue Officials where the Mosque constructed by the petitioner and the burial ground is classified as Kulam poramboke or not.

6. The Revenue Official viz., the Tahsildar, Palani, appeared before this Court.

7. This Court perused the Town Survey Register and it revealed that the land comprised in Survey No.1203/3 poramboke land stands in the name of burial ground for Muslims. Further, it revealed that the



name of Sirunaickenkulam. Therefore, Palani Municipality has rightly granted permission to the petitioner to raise the burial ground upto four feet by filling up of sand. Hence, the petitioner is not an encroacher of the land comprised in Survey No.1203/3 and for time immemorial there is burial ground meant for Muslims.

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8.In view of the above, the second respondent is directed to provide police protection to the petitioner and their workers while levelling the surface of the burial ground by filling up of sand upto the level of four feet comprised in Survey No.1203/3, Kamarajar 2nd Ward, Palani, Dindigul District.

9.With the above direction, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Superintendent of Police,
O/o.The Superintendent of Police,
Dindigul District.
- 2.The Inspector of Police,
Palani Town Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P (MD)No.3570 of 2022
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KB(08.04.2022) 3P 4C