



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.20243 of 2021

A.Sheik Dawood

... Petitioner

Vs.

1.The Commissioner,
Melur Municipality,
Melur Taluk,
Madurai District.

2.The Tahsildar,
Melur Taluk,
Madurai District.

3.C.Natarajan

... Respondents

(R-3 is impleaded vide Court Order dated 21.12.2021 in W.M.P. (MD). No.17811 of 2021 in W.P. (MD).No.20243 of 2021).

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the respondents to survey sub divide and hand over the possession of the land measuring about 80 cents in S.No.275/2, Puduchukkampatti, Melur allotted by the first respondent vide Resolution No.179 dated 21.09.2015 for the burial ground of the Muslims of in and around Melur by considering the petitioner's representation dated 08.10.2021 within the time limit that may be stipulated by this Court.

For Petitioner : Ms.Jasima Yasmin,
For Ajmal Associates.

For R-1 : Mr.M.Veeravelpandi,
For J.Gunaseelan Muthiah.

For R-2 : Mr.J.John Rajadurai,
Government Advocate.

For R-3 : Mr.S.Arunnithi



ORDER

This Writ Petition has been filed in the nature of Mandamus seeking a direction primarily against the first respondent/the Commissioner, Melur Municipality, Madurai District to survey, subdivide and hand over the possession of the land measuring about 80 cents in Survey No.275/2, Puduchukkampatti, Melur which according to the petitioner had been allotted by the said first respondent vide Resolution No.179 dated 21.09.2015 as a burial ground for the Muslims of in and around Melur. The petitioner had also given a representation on 08.10.2021.

2. Objections however were raised by an individual C.Natarajan and this Court had impleaded the said individual C.Natarajan/the third respondent by order dated 21.12.2021. In the affidavit filed in support of the said application, raising objections, it had been stated that the said burial ground is not in a suitable place and would affect the surrounding residents. However, learned counsel for the petitioner stating that the first respondent had passed a resolution in Resolution No.179 dated 21.09.2015 and it is only in accordance with the said resolution that the petitioner had filed the present Writ Petition seeking allotment of the land.

3. This is an issue which is to be resolved only by the first respondent with the assistance of the second respondent. The first respondent had passed a resolution. Now they will have to take a decision to abide such resolution. They may also hear the representation of any third party, particularly, the third respondent herein. But as a broad principle, they must ensure that a place is allotted for burial ground for Muslims residing in and around Melur. That responsibility is paramount on the first respondent/the Commissioner of Melur Municipality.

4. Therefore, a Mandamus is issued that the first respondent should examine the resolution already passed, make an inspection in the area of the land for which that resolution was passed, examine the representation given by the petitioner dated 08.10.2021 and if there are any objections, also hear the individual parties who raised objections, particularly, the third respondent C.Natarajan and thereafter, if required pass a further resolution in this regard.

5. Let a decision be taken within a period of twelve (12) weeks from the date of receipt of a copy of this order. It is again made clear that the responsibility of the first respondent to provide a burial place is paramount and they cannot shrink away from that particular duty, which is cast on them. They must make sure that a place, in fact a convenient place is allotted as a burial ground for Muslims residing in and around Melur.



6. With the said observations, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (P&A)

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/ /2022
Sub Assistant Registrar(CS)

Nsr

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 Commissioner,
Melur Municipality,
Melur Taluk,
Madurai District.

2.The Tahsildar,
Melur Taluk,
Madurai District.

+1 CC to M/s.J.GUNASEELANMUTHIAH, Advocate (SR-543[F] dated 06/01/2022)

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05.01.2022

MGJ(25.01.2022) 3P 4C