



W.P.No.15051 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2023

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.15051 of 2018
and W.M.P.Nos.17816 and 17817 of 2018

Anthonyappan Kallari Committee
(Regd.No.109/2011),
Amaladass,
Vice President,
Velankanni,
Nagapattinam District.

.. Petitioner

Vs.

1.The Additional District Magistrate (or)
District Revenue Officer,
Nagapattinam District.

2.The Revenue Divisional Officer-Cum-
Sub Divisional Magistrate,
Nagapattinam District.

3.Jayaseelan

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order or direction more particularly a Writ of Certiorari, to call for the records pertaining to the impugned order bearing No.Na.Ka.No.515 of 2017/A2 dated 30.03.2017 passed by the second respondent and consequential order bearing No.Na.Ka.No.7657/2017/C2 dated 21.09.2017 passed by the first respondent and quash the same.

For Petitioner : Mr.D.Nandagopal

For Respondents : Mr.K.M.D.Muhilan,
Additional Government Pleader
for R1 and R2

Mr.M.S.Umesh
for Mr.P.Dinesh Kumar
for R3

ORDER

This Writ Petition has been filed seeking to quash the impugned order dated 30.03.2017 passed by the 2nd respondent and the consequential order dated 21.09.2017 passed by the 1st respondent.



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2. It is the case of the petitioner that there are three burial grounds in Velankanni namely Antonyappan Kallarai, Christian Kallarai and common burial ground in the Government Poromboke land which are being utilized by the people belonging to respective communities. The burial ground situated at Velankanni, Keezhavelur Taluk, Nagapattinam District is being utilized by the petitioner community in the name of Antonyappan Kallarai, wherein the 3rd respondent was trying to bury his late mother Kamalam which was objected by the petitioner community and a complaint was lodged before the law enforcing agency against the 3rd respondent and the said matter was referred to the 2nd respondent pursuant to which, enquiry was conducted between the parties and thereafter a final order dated 30.03.2017 came to passed by the 2nd respondent declaring the disputed burial ground as a common burial ground to be used by all communities without any discrimination, against which, appeal was preferred before the 1st respondent seeking to set aside the aforesaid order, which resulted in passing of the present impugned order dated 21.09.2017 confirming the order of the 2nd respondent. Challenging the same, the petitioner has come up with this Writ Petition.



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3. Learned counsel for the petitioner submits that suit has been filed by the petitioner in O.S.No.207 of 2016 with respect to the burial ground situated at Velankanni, Keezhavelur Taluk, Nagapattinam District which is pending on the file of the District Munsif Court, Nagapattinam. While so, the revenue authorities have no authority to declare the same as the common burial ground and it is for the competent civil court to decide the same. Hence, the impugned order of the 1st respondent is liable to be interfered with.

4. On the above contention, this Court heard the learned Additional Government Pleader appearing for the 1st respondent and perused the materials available on record.

5. A perusal of the Counter Affidavit filed on behalf of the 1st respondent reveals that the disputed burial ground has been classified as Government Poromboke land, however, the suit which has been filed by the petitioner in O.S.No.207 of 2016 seeking declaration and the same is



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pending. Further, the issue involved in the present petition being civil in nature, rendering any opinion on the merits of the case would adversely affect the interest of the petitioner as well as the respondents. Therefore, the appropriate remedy for the parties would be to approach the competent civil court where the suit is pending. Without exhausting such remedy, filing of Writ Petition before this Court is not sustainable and hence, the impugned order cannot be interfered with as the same is subject to the result of the civil suit which is pending.

6. In view of the above observation, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

10.03.2023

NHS

Index : Yes / No

Internet : Yes / No



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M.DHANDAPANI, J.

NHS

To

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