



W.P.(MD)No.11812 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Orders Reserved On 06.12.2023	Orders Pronounced On 11.12.2023
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W.P.(MD)No.11812 of 2021
and
W.M.P.(MD)Nos.9267 and 12795 of 2021

N.K.Shanmugasundaram

... Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Block Development Officer (Village Panchayat),
Office of the West Panchayat Union,
Madurai -625 002.

3.The Tahsildar,
Madurai North Taluk,
Madurai.

4.The President,
Chettikulam Panchayat, Chettikulam,
Oomatchikulam Village, Madurai.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Mandamus, forbearing the respondents 2 and 4



W.P.(MD)No.11812 of 2021

from constructing the compound wall for the burial ground located at Survey No.124/4 by blocking the common road leading to the petitioner's lands in Survey Nos.121/1C2, 121/2B, 124/2C1B3, at Oomatchikulam Village, Chettikulam Panchayat, Madurai North Taluk, Madurai District, in the light of the undertaking given by the second respondent under Letter in Na.Ka.No.4392/2007/Thi2, dated 20.11.2007.

For Petitioner
For Respondents

: Mr.K.R.Laxman
: Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.K.S.Selvaganesan
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, forbearing the respondents from constructing the compound wall for the burial ground, located at Survey No.124/4, by blocking the common road leading to the petitioner's lands at Ommatchikulam Village, Chettikulam Panchayat, Madurai North Taluk, Madurai District.

2. The grievance of the petitioner is that an attempt was made by the respondents to construct a compound wall by blocking the common road, which was the access to the petitioner to go to his lands. When this was pointed out, the second respondent through letter, dated 20.11.2007,



W.P.(MD)No.11812 of 2021

informed that the compound wall will be constructed without blocking the common road. Since steps were taken to construct the compound wall contrary to the undertaking given by the second respondent, the present Writ Petition was filed before this Court.

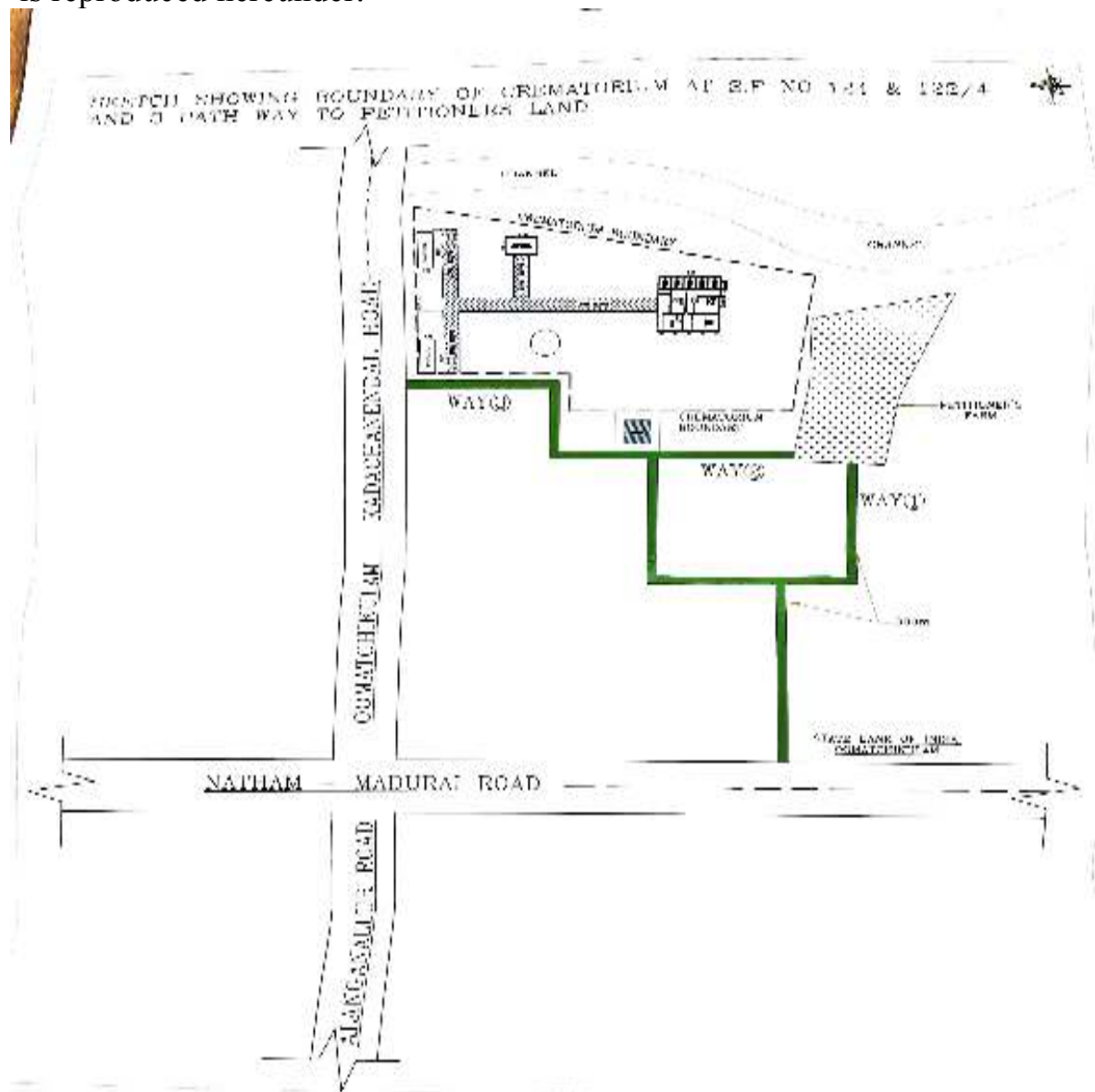
3. The second respondent has filed a counter affidavit and has taken a stand that the compound wall is going to be constructed in Survey No. 124/4, which is categorized as Odai and burial ground in the revenue records. The second respondent has also taken a stand that the petitioner has alternative pathway to reach his lands and therefore, the stand taken by the petitioner as if the only pathway available to the lands belonging to the petitioner is attempted to be blocked is false. The second respondent has taken a further stand that the compound wall should be constructed to conserve the existing burial ground and it is very much required for the local residents in the Village. Accordingly, the respondents have sought for the dismissal of this Writ Petition.

4. Heard the learned counsel appearing on behalf of the petitioner and the learned Additional Advocate General appearing on behalf of the respondents.



5. When the matter was taken up for hearing today, the learned

Additional Advocate General produced the sketch showing the boundary of the Crematorium and the alternative pathways that are available to the petitioner's lands. For proper appreciation, the scanned copy of the Sketch is reproduced hereunder:-





W.P.(MD)No.11812 of 2021

6. The main grievance that was expressed by the learned counsel for the petitioner is that the petitioner was not objecting for the construction of the compound wall around the burial ground and the only objection made was not to construct the compound wall in the pathway, which was used by the local residents and also by the petitioner to access his agricultural lands. The compound wall is going to be constructed around the Crematorium, since a Gasifier is planned to be made operational in the area considering the volume of dead bodies that are brought for cremation. Survey No.124/4, where the compound wall is earmarked for construction, is categorized as Odai and burial ground in the revenue records. Hence, it forms part of the burial ground. The only grievance of the petitioner is that if the compound wall is constructed, it will prevent the access of the petitioner to his lands. This stand taken by the petitioner is falsified due to the fact that there are three other alternative pathways available to the petitioner to access his lands. In view of the same, the petitioner does not have any legal right to prevent the respondents from constructing the compound wall around the Crematorium.



W.P.(MD)No.11812 of 2021

7. In the result, this Writ Petition stands dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/No
NCC : Yes/No
Speaking order / Non-Speaking order
SMN2

11.12.2023

To

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W.P.(MD)No.11812 of 2021

N.ANAND VENKATESH, J.

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Pre-delivery order made in

W.P.(MD)No.11812 of 2021

11.12.2023