



W.P(MD)No.13406 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13406 of 2014

R.Sundaram @ Chiniyapillai

... Petitioner

Vs.

1.The Commissioner,
Tamil Nadu HR & CE Department,
Cehnnai- 09.

2.The District Collector,
Virudhunagar District,
Virudhunagar.

3.The Joint Commissioner,
HR & CE Department,
Sivagangai.

4.Assistant Commissioner / Executive Officer,
Arulmigu Mariamman Thirukkivil,
Irukkankudi, Virudhunagar District.

5.S.R.M.Ramamoorthi Poosari,
President,
Heredity Trustee of Arulmighu Mariamman Thirukkivil,
Irukkankudi, Virudhunagar District. ... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of 3rd Respondent in Na.Ka.No.3416/2014 A3, dated 24.06.2014 and quash the same and consequently directing the Respondents 1 to 3 to take action against the Respondents Nos.4 & 5 and allow the Petitioner to re-construct the tomb of his father and mother samathi.

For Petitioner : Mr.T.S.Mohammed Mohideen,
For Mr.V.Manikandan

For Respondents : Mr.R.Ragavendran,
Government Advocate for R1 to R3.
Mr.N.Dilipkumar for R5.
Mr.VR.Shanmuganathan for R4.

ORDER

Heard the learned counsel on either side.

2.The petitioner belongs to Pillaimar community. His father passed away in the year 2006 and his mother died in the year 2013. The bodies were buried in S.No.93/2 in Irukkankudi village. The petitioner



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had also raised tombs. The tombs were removed. Contending that the trustees of the temple had illegally done the same, the petitioner sought permission to rebuild the tombs. This request was rejected by the third respondent vide order dated 24.06.2014. Challenging the same, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The respondents have filed counter affidavits and the learned Government Advocate as well as the learned counsel for the private respondents took me through their contents. They submitted that the impugned order is well reasoned and that it does not call for interference. They pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. I called for report from the jurisdictional Tahsildar.



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He states that S.No.93/2 is a large area which encompasses the temple and temple building. A portion of the land on the South – Eastern side has been traditionally used as burial ground. In Irukkankudi village, the members of various communities are residing. Dispute arose. A peace committee meeting was held in the year 2010. It was resolved that North – Western portion can be used as a burial ground by persons belonging to Nadar, Kammalar, Illathu Pillaimar, Maravar, Chettiar, Muthaliyar and Vellalar communities. In the South – East portion measuring around 20 ares is being used by the temple trustees / poojaries as their burial ground. Admittedly, the petitioner though belonging to Pillamar community is not a temple trustee or poojari.

6.The only question that calls for consideration is whether tombs can be put up. There is no right to erect tomb as such. The learned Government Advocate for the third respondent as well as the learned counsel for the fourth respondent informed the Court that even though the trustees / poojaries have been permitted to use South – Eastern portion as their traditional burial ground, in future no tombs will be put up. As regards the North – Western portion, since the tombs of the



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petitioner's parents have been removed, the same yardstick should be applied. If the petitioner cannot put up tombs for his parents, no one else should be allowed to put up tombs also. If there are any other tombs on the North – Western side, they shall be removed. The impugned order is sustained with the aforesaid direction and the writ petition is disposed of. No costs.

12.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

- 1.The Commissioner,
Tamil Nadu HR & CE Department,
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- 2.The District Collector,
Virudhunagar District,
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G.R.SWAMINATHAN, J.

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