



W.P.(MD) No.24252 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.12.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24252 of 2023
and
W.M.P.(MD) No.20423 of 2023

Vaithiyanatha

... Petitioner

Vs.

1.The Government of Tamil Nadu,
represented by its Principal Secretary,
Home Department,
Secretariat,
Chennai 600 009.

2.The District Collector,
Pudukkottai District.

3.The Tahsildar,
Iluppur Taluk,
Pudukkottai District.

4.The Inspector of Police,
Annavasal Police Station,
Pudukkottai District.

5.The Commissioner,
Annavasal Panchayat Union,
Pudukkottai District.

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WEB COPY 6.Arumugam

7.Palaivelu

8.Shanmugam

9.Rangaraj

10.Ulagappan

11.Murugesan @ Murugan

12.Vellaisamy

13.The Deputy Superintendent of Police,
Iluppur,
Pudhukottai District.

14.The Superintendent of Police,
Pudukkottai District.

*(R13 and R14 have been suo motu impleaded
vide order dated 20.11.2023)*

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the Respondents to exhume the corpse of Aarayee, W/o. Arumugam of Periyar Nagar, Sundarapatti village from the petitioner's patta land in Survey No.84/4 measuring an extent of 1.06.00 Hectares Punja Land, Sundarpatti village, Iluppur Taluk, Pudukkottai District forthwith.



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For Petitioner	: Mr.N.Balakrishnan
For R1 to R3	: Mr.S.Ra.Ramachandran Additional Government Pleader
For R4, R13 & R14	: Mr.A.Albert James Government Advocate
For R5	: Mrs.D.Farhana Ghousia
For R6 & R10 to R12	: Mr.T.Thirumurugan
For R7 to R9	: Mr.C.K.M.Appaji

ORDER

Heard both sides.

2.Controversy has arisen because of burial of corpses in S.No. 84/4. Admittedly, the said land had not been notified as a burial ground or cremation ground in the revenue records by the local body. On the other hand, earlier revenue records indicate that it was classified as 'Tharisu'. The petitioner's mother, Nallammal, was granted assignment way back in the year 1977. Though the learned counsel appearing for the contesting private respondents would claim that this assignment was cancelled, there is no material to bear it out. I therefore have to proceed on the premise that the



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land in question is a patta land. But the fact remains that dead bodies have already been buried in the said survey number. There is also a communal angle to the issue. In order to purchase peace, the petitioner has come forward to donate 40 cents of land in S.No.84/4 in favour of the local body. Necessary formalities will be concluded by 15.12.2023. The document will also be duly registered in the Registration Department. The petitioner has to adhere to the necessary formalities. The learned counsel appearing for the private respondents expressed an apprehension that the donated land should not overlap a running Odai. Care will be taken by the authorities to ensure that 40 cents of land to be earmarked is away from any water body, if any.

3.Though in the revenue records, there is no classification that Odai is running, the learned counsel appearing for the private respondents relies on a detailed mark in the FMB. I do not want to go into the said aspect. The learned counsel for the petitioner also states that he will not press for exhuming the bodies that have already been buried. Once the donation process is completed, the 40 cents of land will be separately earmarked. Appropriate boundary stones will be laid. Fencing shall also be



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done. In future, dead bodies should be cremated or buried only within the earmarked portion and not on the remaining extent of land. It is the duty of the authorities to ensure that this direction is scrupulously complied with. If any person breaches this direction, not only the buried body will be exhumed but the person responsible will be hauled up for contempt of this Court.

4. With these directions, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.12.2023

NCC :No
Internet :Yes
Index :No

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Note : Issue order copy on 07.12.2023

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G.R.SWAMINATHAN, J.

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