



W.P(MD)Nos.25182, 25227, 26720 & 26727 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.11.2023

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.25182, 25227, 26720 & 26727 of 2023

and

**W.M.P(MD)Nos.21392, 21413, 22979 to 22981,
21986 & 21987 of 2023**

W.P(MD)No.25182 of 2023:

Chitra

... Petitioner

Vs.

- 1.The District Collector,
Karur District,
Karur.
- 2.The District Revenue Officer,
Karur District,
Karur.
- 3.The Tahsildar,
Pugalur Taluk,
Karur District.
- 4.The Village Administrative Officer,
Karudayampalayam Panchayat,
Pugalur Taluk, Karur District.



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5.The President,
Karudayampalayam Panchayat,
Pugalur Taluk, Karur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to restrain the construction of the communal burial ground at S.F.No. 65 to 68 for the Karudayampalayam Village, Pugalur Taluk, Karur District consequently direct the respondents not to permit any one to burial or burying corpus in S.F.No.65 to 68 for the Karudayampalayam Village, Pugalur Taluk, Karur District, based up on the representation dated 10.10.2023.

For Petitioner : Mr.C.Vakeeswaran

For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R.1 to R.4

W.P(MD)No.25227 of 2023:

Marimuthu

... Petitioner

Vs.

1.The District Collector,
Karur District,
Karur.



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2.The District Revenue Officer,
Karur District,
Karur.

3.The Tahsildar,
Pugalur Taluk,
Karur District.

4.The Village Administrative Officer,
Karudayampalayam Panchayat,
Pugalur Taluk,
Karur District.

5.The President,
Karudayampalayam Panchayat,
Pugalur Taluk,
Karur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to restrain the construction of the communal burial ground at S.F.No. 65 to 68 for the Karudayampalayam Village, Pugalur Taluk, Karur District consequently direct the respondents not to permit any one to burial or burying corpus in S.F.No.65 to 68 for the Karudayampalayam Village, Pugalur Taluk, Karur District, based up on the representation dated 10.10.2023.

For Petitioner : Mr.C.Vakeeswaran

For Respondents : Mr.S.RA.Ramachandran
Additional Government Pleader
for R.1 to R.4



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Mr.A.Kannan
Additional Government Pleader for R.5

W.P(MD)No.26720 of 2023:

Pasupathi

... Petitioner

Vs.

- 1.The Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai.
- 2.The District Collector,
Karur District,
Collectorate, Karur.
- 3.The District Revenue Officer,
Karur Taluk,
Karur District.
- 4.The Tahsildar,
Pugalur Taluk,
Karur District.
- 5.The Block Development Officer,
Paramathi Union,
Pugalur Taluk,
Karur District.
- 6.The Village Administrative Officer,
Karudayampalayam Panchayat,
Pugalur Taluk,
Karur District.



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7.The President,
Karudayampalayam Panchayat,
Pugalur Taluk,
Karur District.

8.T.M.T.Banumathi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned order of the second respondent dated 13.10.2023 in his proceedings in Na.Ka.Aa1/18936/2023 regarding from of new burial ground in S.F.No.67/2 situated at Karudayampalayam Village, Pugalur Taluk, Karur District and consequently direct the respondents 2 to 7 to remove the entry made in the revenue records pursuant to the order of the second respondent.

For Petitioner : Mr.R.Murali

For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R.1 to R.4 & R.6

W.P(MD)No.26727 of 2023:

Marimuthu

... Petitioner

Vs.

1.The District Collector,
Karur District,
Collectorate, Karur.

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2.The District Revenue Officer,
Karur District,
Karur.

3.The Tahsildar,
Pugalur Taluk,
Karur District.

4.The Block Development Officer,
K.Paramathi Union,
Karur District.

5.The President,
Karudayampalayam Panchayat,
Pugalur Taluk,
Karur District.

6.The Village Administrative Officer,
Karudayampalayam Panchayat,
Pugalur Taluk,
Karur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in Na.Ka.Aa1/18936/2023 dated 13.10.2023 signed on 14.10.2023 and quash the same.

For Petitioner : Mr.C.Vakeeswaran



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For Respondents : Mr.M.Siddharthan
Additional Government Pleader
for R.1 to R.4 & R.6

COMMON ORDER

Heard both sides.

2. Apprehending that a cremation ground / burial ground will be put up in Survey No.67/2, Karudayampalayam Village, Pugalur Taluk, Karur District, the first two writ petitions came to be filed. In the other two writ petitions, permission granted by the District Collector, Karur has been specifically challenged.

3. I went through the copy of the proceedings bearing Na.Ka.Aa1/18936/2023 dated 13.10.2023 issued by the District Collector, Karur granting such permission. By the impugned proceedings, the aforesaid land which was earlier classified as “Cart Track” has been reclassified as “Adi Dravidar Mayanam”. It is seen that the Tahsildar, Pugalur had submitted a proposal on 10.10.2023. Of course, the proposal was in the pipeline since May 2023. The impugned



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order states that even though publication was made, no objection was received from the members of the general public. Spot inspection was done on 12.10.2023 by the District Revenue Officer. Based on the report dated 13.10.2023 given by the Revenue District Officer, Karur, the proceedings impugned in WP(MD)No.26720 of 2023 came to be passed.

4.I need not go into the other allegations made by the writ petitioners. The learned counsel appearing for the writ petitioners would insinuate that the proceedings have been back dated. They point out that the District Collector had been transferred on 11.10.2023. It is not in dispute that he was formally relieved only on 15.10.2023. Of course, till a person gets relieved, one can always continue to discharge the official functions and no exception can be taken to that. However, that is not the point here. The burial ground is to come up within the territorial limits of Karudayampalayam Village Panchayat. When the proposal was placed before the Panchayat on 16.10.2023, they passed a resolution negating the proposal. Of course, the District Collector as Inspector of Panchayats can always overrule the same. He must however follow the due process set out in the Tamil Nadu Panchayats Act, 1994. Without ascertaining



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the views of the Village Panchayat, the District Collector could not have passed the impugned proceedings.

5.The learned counsel appearing for the petitioners draw my attention to the relevant statutory Rules. Rule 5 of the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules, 1999 stipulates that license from the Village Panchayat is required for opening a new burial ground. Of course, it is a moot question if this requirement needs to be fulfilled when the burial ground is opened at the instance of the District Administration. This issue is left open. I am interfering primarily for the reason that the views of the Village Panchayat were not obtained before the impugned order was passed.

6.The learned Additional Government Pleader on instructions would strongly submit that the Collector had to fastrack the decision making process because of certain law and order issues. It appears that a family hailing from Adi Dravidar Community had suffered bereavement and faced difficulties in taking the dead body from their house to Survey No.557.



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7. In my view, if any person had prevented such taking of the body, it must have been dealt with by invoking police aid. Forming another burial ground does not appear to be the correct response. In any event, as rightly pointed out by the learned counsel appearing for the petitioners, in this 76th year of independence the Government cannot be seen opening a burial ground on communal lines. The impugned order reads that the cremation ground is for the persons belonging to Adi Dravidar Community. In my view it is time to abolish such separate cremation / burial grounds. All cremation / burial grounds must be available to all persons irrespective of caste. It is seen that subdivisions have been made in the revenue record based on the impugned proceedings. There is a concept known as subordinate and dependent orders. Once the primary order goes, the dependent orders also go as a corollary. The corresponding subdivisions made pursuant to the impugned orders stand set aside.



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8. These writ petitions are allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

1. The District Collector,
Karur District,
Karur.
2. The District Revenue Officer,
Karur District,
Karur.
3. The Tahsildar,
Pugalur Taluk,
Karur District.
4. The Village Administrative Officer,
Karudayampalayam Panchayat,
Pugalur Taluk, Karur District.



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G.R.SWAMINATHAN, J.

MGA

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