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W.P.(MD)NO.29126 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.29126 of 2022 and
W.M.P.(MD)No.23089 of 2022

Navaneethakrishnan

... Petitioner

Vs.

1. The District Collector,
Tenkasi,
Tenkasi District.
2. The Revenue Divisional Officer,
Sankarankovil,
Tenkasi District.
3. The Kurunjakulam Panchayat,
Rep. by its Panchayat President,
Kurunjakulam,
Tenkasi District.
4. The Deputy Superintendent of Police,
Sankarankovil,
Tenkasi District.
5. The Sub Inspector of Police,
Thiruvengadam police station,
Tenkasi District.
6. Rajagopal
7. Balamurugan
8. Murugesan

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to construct a compound wall protecting the property in Survey No. 247/1 and 248/1 situated in Kurunjakulam Village, Thiruvengadam Taluk, Tenkasi District and restrain the respondents 1 to 5 from giving permission to use the playground in Survey No.247/1 and 248/1 to anybody except Kurunjakulam Panchayat Union School.

For Petitioner : Mr.R.J.Karthick

For R-1 to R-5 : Mr.M.Lingadurai,
Special Government Pleader.

For R-6 to R-8 : Ms.M.Maria Vinola

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner's father was one among the ten persons who had executed gift deed conveying the petition mentioned property in favour of the local body. The intention was that a school must come up in the gifted land. The grievance of the



petitioner is that while a portion of the property had been put to use for public purpose, the remaining extent is facing encroachment. The petitioner would therefore demand that a pucca compound wall should be put up so that the property is kept free of encroachment. He had submitted a petition in this regard. Since he did not elicit any favourable response, the present writ petition came to be filed.

3. The stand taken by the petitioner is strongly and vehemently controverted by the private respondents. The learned counsel appearing for the private respondents submitted that the issue has strong communal overtones and that the aim of the petitioner is to interfere with the pathway rights exercised by the people belonging to Scheduled Castes. She also re-counted that the locality witnessed gruesome murders some thirty years ago and that the communal flames will be spread once again, if the petitioner's request is accepted.

4. The revenue authorities as well as the jurisdictional police have independently filed written response and the



learned Special Government Pleader took me through its contents.

5. I carefully considered the rival contentions and went through the materials on record.

6. It is seen from the counter affidavit filed by the jurisdictional Revenue Divisional Officer that the petition mentioned lands comprised in survey Nos.247/1 and 248/1 in Kurunjakulam Village, have now been classified as Government property. It is categorically asserted by the learned Special Government Pleader that the petition mentioned lands shall be kept exclusively for public purposes such as education, health and construction of Anganwadi etc. This statement made in the form of counter affidavit by the revenue authorities is placed on record.

7. In the very same counter affidavit, the jurisdictional Revenue Divisional Officer had also stated that the construction of compound wall will prevent the people belonging to Scheduled Castes from using the property in



question as a pathway. The right of access for the Scheduled Caste people is a highly sensitive issue and as apprehended by the revenue authority, if the compound wall is put up, it may infringe their rights.

8. Therefore, I reject the petitioner's demand for constructing the compound wall around the petition mentioned land. However, the petitioner's other requests will have to be accepted. The petition mentioned land shall not be allowed to be used for any political activity. No political or communal organization shall be allowed to use the property in question. If there is any encroachment in violation of the court's order, the jurisdictional police are directed to remove it without notice. The respondent authorities shall maintain the petition mentioned lands exclusively for public purposes and will not allow any private interest to use the same. It is stated that once in a year, children's programme is conducted. The children's programme shall be conducted, after getting prior permission from the jurisdictional Revenue Divisional Officer as well as the local police. The jurisdictional police shall stipulate appropriate conditions regarding the manner in



which the children's programme can be conducted. If any such condition is stipulated, the organisers of the programme will have to scrupulously adhere to them. The children's programme can be conducted only by the village elders. No political organisation or communal organization can be allowed to organise the programme.

9. This writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

01.02.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

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5. The Sub Inspector of Police,
Thiruvengadam police station, Tenkasi District.

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G.R.SWAMINATHAN,J.

PMU

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