



WEB COPY



W.P.No.11057 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2024

CORAM :

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.11057 of 2024

and

W.M.P.No.12134 of 2024

M.Rajendiran

... Petitioner

Vs.

- 1.The Tahsildar,
Tiruvallur Taluk, JN Road,
Thiruvallur – 602 001.
- 2.The Commissioner,
Thiruvallur Municipality,
Thiruvallur.
- 3.The Inspector of Police,
Tiruvallur Town Police Station,
Tiruvallur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the respondents herein not to permit any of the villagers or others from burying or burning or cremating any dead bodies in the petitioner's property measuring an extent of 8.02 cents comprised



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in Survey Nos.614/1, 2 and 3 in Pungathur Village, Thiruvallur Taluk and

District based on the petitioner's representation dated 07.11.2023.

For Petitioner : Mr.A.R.Suresh

For Respondents :
For R1 : Mr.P.Gurunathan
Additional Government Pleader

For R2 : Mrs.C.Meera Arumugam
Additional Government Pleader

For R3 : Mr.C.E.Pratap
Government Advocate
(Criminal Side)

ORDER

This Writ Petition has been filed by the petitioner seeking for issuance of a Mandamus, to direct the respondents herein not to permit any of the villagers or others from burying or burning or cremating any dead bodies in the petitioner's property measuring an extent of 8 Acres 02 Cents comprised in Survey Nos.614/1, 2 and 3 in Pungathur Village, Thiruvallur Taluk and District based on the petitioner's representation dated 07.11.2023.



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2. The case of the petitioner is that he owned an agricultural land in the village called Pungathur Village, Thiruvallur District, measuring to an extent of 3 Acres 47 Cents in S.No.614/1, which was inherited by him by way of four Settlement Deeds dated 14.02.1977 in Doc.Nos.2746/1977, 2748/1977, 2749/1977 and 2750/1977, registered before the Sub Registrar Office, Thiruvallur District. The petitioner was granted Patta in the said 3 Acres 47 Cents of land in Patta No.395. Likewise, the property measuring to an extent of 2 Acres 90 Cents comprised in S.No.614/2 in Pungathur Village, Thiruvallur District was purchased by the petitioner's father, namely Murugesu Mudhaliar and he was the absolute owner of the said property. The petitioner's father executed a registered Will in favour of the petitioner's sons viz., R.Mukundhan and R.Sivakumar with life interest estate vide Doc.No.33/2004 on the file of the Sub Registrar Office, Thiruvallur. The petitioner's father died on 14.05.2004. After the death of the petitioner's father, the property was bequeathed by the petitioner and he is in peaceful possession and enjoyment of the property with his family.



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3. Similarly, the petitioner's mother had executed a registered Settlement Deed in favour of the petitioner for the property measuring to an extent of 1 Acre 65 Cents comprised in S.No.614/3 in Pungathur Village, Thiruvallur District vide Doc.No.6038/2010 on the file of the Sub Registrar Office, Thiruvallur. The petitioner has been in continuous possession and enjoyment of the above-said properties measuring to an extent of 8 Acres 02 cents comprised in S.Nos.614/1, 2 and 3 in Pungathur Village, Thiruvallur District and cultivated the same. For the past 5 years, the petitioner have been planting casuarina trees and plants. The petitioner's property is situated on the eastern side of the road leading to Dadhukanpettai/Thavuthkanpettai Village, Thiruvallur District. The petitioner submitted that there is a separate burial ground for burying the dead corpses on the western side of the same road in the said village. Though there is a separate burial ground, the villagers are burying the dead corpses on the western side of the petitioner's agricultural lands abutting the road. In spite of his repeated objections to the villagers not to use his agricultural lands as a burial ground, they are still making attempts to use his lands. As a result of which, the petitioner's lands are not suitable for cultivation purpose.



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4. The petitioner made a representation to the first respondent on 08.03.2021, to take action, not to permit the villagers to use his land as a burial ground. Though the respondents have received the said representation, they have not chosen to pass any orders or to conduct an inquiry. Hence, the petitioner filed W.P.No.7086 of 2023 with a prayer to direct the respondents therein not to permit any of the villagers or others from burying or burning or cremating any dead bodies in the petitioner's property measuring an extent of 8 Acres 02 Cents comprised in S.Nos.614/1, 2 and 3 in Pungathur Village, Thiruvallur District. This Court, by order dated 08.03.2023, disposed of the said writ petition. The operative portion of the said order dated 08.03.2023 reads as follows:-

“5. Learned Special Government Pleader appearing for the respondents submitted that, pursuant to the representation dated 08.03.2021 made by the petitioner, the 3rd respondent, vide letter dated 06.03.2023 directed the Municipal Commissioner, Tiruvallur Municipality to take necessary action to forbear any of the Villagers or others from burying or burning or cremating any dead bodies in the petitioner's property and submit a report to that effect.

6. In view of the aforesaid submission made by the learned Special Government Pleader, this Court without expressing any opinion on the merits of the case, directs the Municipal Commissioner, Tiruvallur Municipality to implement the letter of the 3rd respondent/The Tahsildar dated



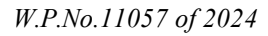
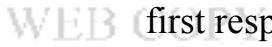
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06.03.2023 within a period of four weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner and aggrieved persons, if there is no legal impediment.

7. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.”

5. Pursuant to the said order dated 08.03.2023, the petitioner made a representation to the Commissioner, Thiruvallur Municipality, Thiruvallur the second respondent herein on 15.09.2023 that still many of the villagers are burying dead corpses in his property. The petitioner made reminders to the second respondent again on 23.09.2023 and 26.09.2023, to prevent the villagers from burying any dead corpse in his property. But, the same were not considered, which forced the petitioner to file a police complaint before the Thiruvallur Police Station, Thiruvallur, the third respondent herein on 04.10.2023. Though a CSR was registered as CSR.No.1197/2023, no action has been taken so far.

6. The petitioner made a representation to the respondents once again on 07.11.2023, to prevent the villagers from burying dead corpses and to conduct inquiry as per the directions of this Court vide order dated 08.03.2023. Pursuant



7. Learned counsel for the petitioner would submit that the property measuring to an extent of 8 Acres 02 Cents comprised in S.Nos.614/1, 2 and 3 in Pungathur Village, Thiruvallur District, belongs to the petitioner, who got the same by inheritance from his father, and he is in continuous possession and enjoyment of the same. He would further submit that even though there is a separate burial ground, the villagers are burying, burning and cremating the dead bodies in the petitioner's property. He would urge this Court to direct the respondents not to permit any of the villagers or others from burying or burning or cremating any dead bodies in the petitioner's property.

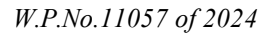
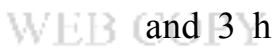


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8. The learned Government Advocate (Criminal Side) for the third respondent/police, while reiterating the counter affidavit filed on behalf the third respondent wherein, it is stated that though there is a separate burial ground, the villagers are burying the dead corpses on the western side of his agricultural lands as a burial ground. They are still making attempts to use the petitioner's agricultural lands. As a result of which, the petitioner's land are getting damaged and becoming not suitable for cultivation purpose. On the petitioner's complaint dated 04.10.2023, the third respondent went to the petitioner's land and issued summons to the petitioner to appear for inquiry. The third respondent also advised the petitioner to measure his land and fence the property and received a statement in writing from the petitioner. Based on the petitioner's statement, the third respondent closed the CSR.No.1197/2023 as "Civil in Nature" on 09.10.2023 and intimated the same to the petitioner and advised the petitioner to seek appropriate remedy before the competent authorities i.e., the revenue authorities for safeguarding his agricultural lands.

9. Learned Additional Government Pleader for the first respondent had filed a status report wherein, it is stated that the first respondent has measured



10. According to the revenue official the first respondent, the burial ground is on the eastern side of the Pungathur Road particularly holding the area of 7.0 meter width/breadth and 38.8 meter length. According to the first respondent, it stated that out of total extent of agricultural lands in S.Nos.614/1 of 0.03.50 hectares, an extent of 0.07 cents of land has been utilized by the village people as a burial ground.

11. Hence, this Court directs the revenue official/the first respondent to take appropriate action and prevent the village people from burying or burning or cremating the dead bodies in the petitioner's property measuring an extent of



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8 Acres 02 Cents comprised in S.Nos.614/1, 2 and 3 in Pungathur Village,

Thiruvallur District based on the petitioner's representation dated 07.11.2023.

12. The petitioner is permitted to put up a compound wall in his area, which has been already measured by the land surveyor and the records are also verified by the first respondent. While constructing the compound wall, the revenue authorities/the first and second respondents shall be present, to avoid unnecessary nuisance and threat by the village people. The first respondent is hereby directed to inform the village people to use the land which has been declared as “burial place” by the revenue authorities and has been invoked.

13. It is left open to the petitioner to seek assistance of the revenue authorities at a later point of time if there is any disturbance arises. In case if any person attempts to prevent the petitioner from constructing the compound wall, the third respondent shall give protection to the petitioner for constructing the compound wall in his agricultural lands to see that no more burial be done in the private Patta land/Agricultural lands of the petitioner, which would be fenced by the petitioner.



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14. This Writ Petition is allowed with the above observation and direction. No costs. Connected Writ Miscellaneous Petition is closed.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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To

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Tiruvallur Taluk, JN Road,
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- 2.The Commissioner,
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- 3.The Inspector of Police,
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V.BHAVANI SUBBAROYAN, J.

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and

W.M.P.No.12143 of 2024

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