



W.P.No.11424 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.11424 of 2020
and W.M.P.Nos.13933 of 2020

C.Selvarajan

...Petitioner

-Vs-

1. The District Collector/
Inspector of Panchayats,
Ariyalur District,
Ariyalur.
2. The Commissioner/
Block Development Officer,
Village panchayat,
Jayamkondam Panchayat Union,
Jayamkondam,
Ariyalur District.
3. The Panchayat President,
Kundaveli Village Panchayat,
Jayamkondam Panchayat Union,
Meensuruti,
Udayarpalayam Taluk,
Ariyalur District.
4. The Tasildhar,
Udayarpalayam Taluk,
Udayarpalayam,
Ariyalur District.
5. The Inspector of Police,



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Meensuruti Police Station,
Meensuruti,
Ariyalaur District.

6. Jangam Samuga Nala Sangam,
Rep by its President M.G.Rajendran
No.15, Main Road, Meensuruti,
Kundaveli Village Panchayat,
Udayarpalayam Taluk,
Ariyalur District.
(R6 impleaded vide order dated
19.01.2021 made in W.M.P.No.
18855 of 2020 in W.P.No.11424 of 2024)

7. Sengundar Mudaliar Samudhayam
Rep. by its President N.Rachakrishnan,
461, Kaliamman Koil Street,
Meensuruti, Kundaveli East,
Udayarpalayam Taluk,
Ariyalur District.
(R6 impleaded vide order dated
18.02.2021 made in W.M.P.No.
3215 of 2021 in W.P.No.11424 of 2024)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents 1 to 4 from closing the southern entry of petitioner's Marriage hall through S.No.334/2 and S.No.334/3, situated at Kundaveli Village, Udayarpalayam Taluk and Ariyalur District and consequently direct the third respondent to ensure the southern entry of Marriage hall as provided in the building plan approval granted by the Village Panchayat vide order dated 20.02.2006 under Tamil Nadu Panchayat Act 1994 and its Rules.



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For Petitioner : Mr.M.R.Jothimanian

For Respondents

For R1 to R4 : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.N.Naveen Kumar
Government Advocate

For R5 : Mr.S.Balaji
Government Advocate (Crl. Side)

For R6 : Mr.V.Raghavachari, Senior Counsel
For Mrs.V.Srimathi

For R7 : Mr.B.Kumarasamy

ORDER

This writ petition has been filed forbearing the respondents 1 to 4 from closing the southern entry of the petitioner's marriage hall through Survey Nos.334/2 and S.No.334/3, situated at Kundaveli Village, Udayarpalayam Taluk and Ariyalur District.

2. The petitioner owned property comprised in survey Nos. 335/83 and 335/8D, situated at Kundaveli Village, Udayarpalayam Taluk, Ariyalur District. After obtaining building plan approval from the third respondent on 20.02.2006, the petitioner had constructed a marriage hall in the name of Selvamahal Thirumana Mandapam. The marriage hall has two entries. One is from northern side and other one is



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southern side through road comprised in survey No.334/2 & 3, as per the building plan approval granted by the third respondent. However, in the year 2020, the husband of the third respondent President, who is acted on behalf of the third respondent made objections to use the southern side entry of the marriage hall. The third respondent is also trying to put up wall to close the southern entry of the marriage hall.

3. The land comprised in survey No.334/3 is classified as Mayanam poramboke and northern side of the said land, there is a road used by the villagers to reach the panchayat office and daily market. End of that road, the panchayat office building has been constructed in the year 2017, in the land comprised in survey No.334/2. Therefore, it is a public road between the marriage hall and the burial ground. The boundary of the burial ground is protected by a compound wall. In between the burial ground compound wall and the exist gate in the southern side of the marriage hall, there is more than 40 feet road used by the general public to reach the panchayat office. When the general public entered into the marriage hall on its northern side gate, then they can very well exist from the marriage hall in the southern gate of the marriage hall viz., through the public road comprised in survey Nos. 334/2 & 3.



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4. At the time of admission, this Court by an order dated 16.09.2020, granted an interim injunction. While the interim order is in force, the respondents 2 to 5 herein permitted the sixth and seventh respondents to bury the body in front of the southern gate of the marriage hall owned by the petitioner. The learned counsel appearing for the petitioner produced videograph and photograph showing that the southern side of the marriage hall in which there is an exist gate. The people who is coming out through the southern gate of the marriage hall, have to proceed in the public road situated in survey Nos.334/2 & 3, to reach the main road. In the end of the same road, namely just back side of the marriage hall, Kundaveli village panchayat office is situated and the vehicles of the said panchayat office are parked in front of the said office viz., near the southern gate of the petitioner's marriage hall. It is the only access to reach the panchayat office. Other side of the said road is compounded by the burial ground wall and the burial ground has separate gate. Further revealed that the road is width of approximately 40 feet. It is a big road and it is used by the general public.

5. The learned Additional Advocate General appearing for the



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respondents 1 to 4 submitted that the land comprised in survey No. 334/2 & 3 is classified as Mayanam Poramboke and it belongs to particular community viz., the sixth and seventh respondents herein. In the said property, there is a pathway to reach the panchayat office and the burial ground. Therefore, the petitioner cannot use the southern gate of his marriage hall, since it is used by the sixth and seven respondents to bury the body. He further submitted that the petitioner also filed suit in O.S.No.98 of 2020 on the file of the District Munsif Court, Jayankondam, for declaration of easementary right from the southern entry of his marriage hall. However, he failed to obtain any interim order and filed this writ petition. When the suit is pending, the writ petition itself is not maintainable. Therefore, the third respondent in order to protect the pathway, proposed to construct a compound wall by closing the southern entry of the marriage hall. The petitioner objected the same and as such, they lodged complaint and the same has been registered in Crime No.460 of 2020 on the file of the Inspector of Police, Meensuratty Police Station, for the offences punishable under Sections 147, 148, 294(b), 506(2) of IPC r/w. 3(1)(r), 3(1)(s), 3(2)(VA), 3(1) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, and it is pending for investigation.



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6. Mr.V.Raghavachari, learned Senior Counsel appearing for the sixth respondent submitted that the petitioner encroached the property comprised in survey Nos.334/2 & 3, which is classified as Mayanam Poramboke and constructed the gate of his marriage hall. The entire construction of the marriage hall is clear violation of planning permission. Therefore, the respondents 6 & 7 had buried the body in the said land. The said burial ground belongs to their community exclusively. The pathway used by the panchayat officials to reach their office and the people are also using the said pathway to reach the burial ground. The burial ground is also protected with compound wall. Therefore, the petitioner cannot be permitted to use the southern side entry from his marriage hall.

7. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

8. Admittedly, while the interim order is in force, on the protection of the respondents 2 to 5, the sixth respondent buried the body in front of the southern side gate of the petitioner's marriage hall. Further



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there is no proper reply from the respondents for burring the body that too in the road used by the panchayat officials and other general public to reach the panchayat office. On perusal of the planning permission obtained by the petitioner from the third respondent also revealed that there is an exist through southern side gate of the marriage hall. The marriage hall is surrounded with compound wall. On the southern side and northern side of the marriage hall, there are two entry points to the marriage hall.

9. Even assuming that as per the planning permission, there is no exist point from the marriage hall on the southern side, in between the compound wall of the marriage hall and the compound wall of the burial ground, there is a 40 feet road. The said road is used by all the common public to reach the panchayat office and also the sixth and seventh respondents to reach burial ground. Therefore there is absolutely no impediment for the respondents to permit the petitioner to use the southern side gate as exist point of the marriage hall.

10. Though the road is formulated in survey Nos.334/2 & 3, which is classified as Mayanam Poramboke, for the past several years, it



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is used by the general public as road. If the burial ground extended beyond the compound wall up to the compound wall put up by the petitioner, there will not be any road and there will not be any access to the panchayat office. Therefore, 40 feet width road has been laid out in survey Nos.334/2 & 3 for the usage of the general public. It is sorry state of affairs that the respondents had buried the body just in front of the southern gate of the petitioner's marriage hall, that too while the interim order passed by this Court is in force. Therefore, the respondents can very well permit the petitioner to use his southern side gate of the marriage hall as exist point and use the road comprised in survey No.334/2 & 3 situated at Kundaveli Village, Udayarpalayam Taluk, Ariyalur District.

11. According, the respondents are hereby restrained from closing the southern entry of the marriage hall through survey Nos. 334/2 & 3 situated at Kundaveli Village, Udayarpalayam Taluk, Ariyalur District. It is also made clear that the respondents 1 to 5 must ensure that no dead body will be buried in the public road between the petitioner's marriage hall compound and the burial ground compound comprised in survey Nos.334/2 & 3.



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Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

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Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

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