



W.P No.16577 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P No.16577 of 2020
and W.M.P.Nos.20555 and 20556 of 2020

K.B.Nagendiran

.. Petitioner

-VS-

1.The District Collector
Kancheepuram District
Kancheepuram.

2.The District Revenue Officer
Kancheepuram District
Kancheepuram.

3.The Tahsildar
Thirukazhukundram Taluk
Kancheepuram
Kancheepuram District.

4.S.S.Dan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by 3rd respondent in



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Na.Ka.No.255/2019/Aa.1 dated 31.01.2019 and quash the same and consequently direct the respondents 1 to 3 to restore the existing burial ground in S.No.55 and its pathway through the land comprised in S.No.54/3A2B, 54/B and 54/3C, Kuzhipanthandalam Village, Thirukazhukundram Taluk, Kancheepuram District by removing the obstruction wall erected by the 4th respondent.

For the Petitioner : Mr.M.R.Jothimanian
for Mr.K.Balu

For the Respondents : Mr.K.Karthik Jegannath
Government Advocate
- for R1 to R3

Mr.S.Mahamani
for Mr.S.Varsha - for R4

* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.M.R.Jothimanian appearing on behalf of Mr.K.Balu, learned counsel for the petitioner, Mr.K.Karthik Jegannath, learned Government Advocate appearing for the respondents 1 to 3 and Mr.S.Mahamani for Mr.S.Varsha, learned counsel for the fourth respondent.



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2. Learned counsel for the petitioner submits that the land at S.No.55 was used as burial ground. Only because some objections were raised by the persons concerned for use of a particular land as a pathway to the burial ground, the respondents are now shifting the burial ground to S.No.334/1. Learned counsel submits that even the District Collector has passed an order to acquire the land of the pathway to S.No.55. However, the same is not being resorted to and a land which is classified as a 'Thoppu Poramboke' is now being used as a burial ground.

3. Learned Government Advocate appearing for the respondents 1 to 3 submits that for acquisition of land for pathway to the burial ground in S.No.55, objections were raised by the Patta holders and now S.No.334/1 is designated as a burial ground.

4. Just because a particular land is designated by the State authority as burial ground, that would not give a right to any person to use it as burial ground unless a licence is issued as contemplated under Section 5 of the Tamil Nadu Panchayats Act, 1994. The said



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issue is no longer *res integra* in view of the judgment of the Full Bench of this Court in W.A.No.1037 of 2023 dated 20.07.2023 (Jagadheeswari and Others -vs- Babu Naidu and Others).

5. In the light of the above, the respondents may not use S.No.334/1 as burial ground unless and until the licence is issued by the Panchayat.

6. With the above observation, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.V.G., CJ.) (J.S.N.P., J.)
04.04.2024

Index : Yes/No
Neutral Citation : Yes/No
kst



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