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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.22222 of 2019

and

W.M.P.No.21506 of 2019

R.Venkatesan

... Petitioner

Vs.

1.The District Collector,
Vellore District, Vellore.

2.The Village Administrative Officer,
Mailpatti Village,
Gudiyatham Taluk,
Vellore District.

3.The Divisional Railway Manager (DRM),
Chennai Division, Chennai.

4.The Tahsildar,
Gudiyatham,
Vellore District.

... Respondents

[R4 suo-motu impleaded as per order dated
27.01.2020 made in WP.No.22222/2019]



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents from permitting anyone from burying or burning the dead bodies in Survey Nos.114 and 123, classified by the revenue as road and channel respectively in Mailpatti Village, Gudiyatham Taluk, Vellore District and consequently remove the encroachments by considering petitioner's representation dated 13.02.2019.

For Petitioner	: Mr.Sunilkumar.R
For R1, R2 & R4	: Mr.A.Selvendran Special Government Pleader
For R3	: Mr.P.T.Ram Kumar Standing Counsel [For Railways]
	: Mr.A.Chandrasekar Advocate Commissioner

ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The writ of mandamus has been instituted to forbear the respondents from permitting anyone from burying or burning the dead bodies in Survey Nos.114 and 123, classified by the Revenue as road and channel respectively in Mailpatti Village, Gudiyatham Taluk, Vellore District and consequently remove the encroachments by considering petitioner's representation dated



13.02.2019.

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2. The grievance of the writ petitioner is that the public road, railway land and odai are being used as burial ground to bury and burn the dead bodies. The said land is not approved as burial ground by the competent authorities. Thus, the present writ petition came to be instituted.

3. The learned counsel for the petitioner would submit that there is a pathway to reach the main road for the petitioner's house. Even on the pathway, the dead bodies are buried and concrete structures are put up. Therefore, an action is to be taken to remove all those concrete tombs and clear the pathway for free egress and ingress.

4. The learned Advocate Commissioner appointed by this Court submitted a report and reads as under:

"6. I noticed that dead bodies were buried also in a portion of S NO.114 classified as odai. There is a 16 feet public road running East-West in S.No. 123 on the South of the Odai (S.No. 114). I noticed that dead bodies were buried next to petitioner's compound wall within 1 meter from the



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wall. About 10 to 15 tombs also were constructed therein in S. No. 123, (road). Dead bodies were buried in almost entire portion abetting the compound wall leaving a small passage / access (4 feet) to the petitioner to reach his house. In the event dead bodies are buried in that portion also, the petitioner will not have access to his house from the public road.

7. I further submit that the petitioner and the revenue officials have shown me a Burial Ground in a place nearby S Nos. 114, 123 & 132. They said it is a government burial ground in common for all communities and it is situated in S.No. 124/ 1 & 3. The said government burial ground is covered by compound wall. Vast extent of vacant land was available within the compound wall for burning and burying dead bodies. I noticed a concrete structure in S. No. 124/1 and the revenue officials and the villagers informed that it is constructed by the government for facilitating burning of dead bodies within the burial ground. Water facility with sintex (PVC) water tank was made available within the compounded place. I noticed that dead bodies were buried and burned in that Government burial ground and tombs were also available in that place. With the help of the revenue officials I measured the



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distance between the objectionable site (where dead bodies were buried) and the said government common burial ground and found that it is 224 meters. Photographs & Video coverage was taken at the site by a person arranged by revenue officials. The inspection came to an end at about 2 pm. I received the initial remuneration of Rs. 10 Thousand as ordered by this Hon'ble court and Rs. 5 thousand towards cab charges from the petitioner and I left the place and reached Chennai by 6 P.M. A rough sketch of the site and copies of the photos shared by the officials are also filled along with this report in compliance of the order passed by this Hon'ble court.”

5. The report of the learned Advocate Commissioner confirms such obstructions caused on account of burial of dead bodies in railway lands partly and in the land classified as “Odai” (water body).

6. It is further stated that a designated burial ground is available in S.No.124/1 and 3 to bury the dead bodies. The said burial ground has been provided with all infrastructure and necessary facilities for burial and burning of dead bodies. Despite the fact that the burial ground is available in



S.No.124/1 and 3, few persons are burying the dead bodies in the railway land and in the water course poromboke classified as odai.

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7. The Revenue Authorities are duty bound to prevent such illegal burial of dead bodies, which all are causing nuisance and obstruction to the people of that locality to use the road freely.

8. In view of the facts and circumstances, the respondents are directed to remove the concrete structures constructed for burial of dead bodies in S.No.114, 123 and 132 of the Melpatti Village, Peranampattu Taluk, Vellore District. The respondents are directed to ensure that the dead bodies are buried and burned only in the designated burial ground in S.No.124/1 and 3. All obstructions in the Survey Nos.114, 123 and 132 are directed to be removed with assistance of the Police and the authorities shall not permit burial of dead bodies hereinafter in the said survey numbers. Any complaint in this regard is to be attended immediately to prevent illegal burial of dead bodies in water course poromboke, Government lands and the railway lands. The said exercise is directed to be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. All the Revenue Authorities, Local Body Authorities, Railway Authorities and the Police



Authorities are directed to cooperate for removal of all these concrete structures and to ensure that dead bodies are buried only in the designated burial ground.

9. With the above directions, this Writ Petition stands allowed. No costs. Consequently connected Miscellaneous Petition is closed.

[S.M.S., J.] [K.R.S., J.]
18.03.2024

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order / Non-speaking order



To

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