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W.P.No. 20688 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :04.12.2024

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.20688 of 2024

and

W.M.P.No.22633 of 2024

Akbar Ali (alias) K J Sayed Mohammed
Majid Sunnarh Vazamath,
Represented by its President,
K.J.Syed Moulans, Karattadipalayam,
Gobichettipalayam Taluk,
Erode District.

... Petitioner

Vs

1.The Collector,
Office of the District Collectorate,
Erode District.

2.The Divisional Engineer,
Highways, Gobichettipalayam,
Erode District.

3.The Assistant Divisional Engineer,
The Highways, Gobichettipalayam (South),
Sub-Division,
Erode District.

4.Revenue Divisional Officer,



W.P.No. 20688 of 2024

Gobichettipalayam,
Erode District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records proceedings of the 4th respondent dated 02.07.2024 in proceedings Na.Ka.No.61/2024 and quash the same.

For Petitioner : Mr.Eswar

For Respondents : Mr.A.Selvendiran
Special Government Pleader

ORDER

This Writ Petition is filed for a Writ of Certiorari, to call for the records proceedings of the 4th respondent dated 02.07.2024 in proceedings Na.Ka.No.61/2024 and quash the same.

2. The petitioner's contention is that a Kabarsthan (Burial ground for Muslim Community) has been in existence in S.No.74, situated at Lakampatti village, for over 100 years. Since the possession and usage of the same was being disturbed, the petitioner had filed O.S.No.369 of 2008 on the file of the District Munsif Court, Gobichettipalayam for permanent injunction against the respondents herein. The suit was



W.P.No. 20688 of 2024

dismissed by judgment and decree dated 21.12.2016 against which the petitioner had filed A.S.No.4 of 2017 on the file of the Sub-Court, Sathyamangalam, which is also dismissed by judgment and decree dated 16.08.2019. These concurrent judgment has been challenged in S.A.No.580 of 2020, which is pending consideration. Meanwhile, the Government had a plan for expanding the road in to a 4 lane facility, from Gobichettipalayam to Erode District. Notice was issued by the 3rd respondent to the petitioner for removal of the burial ground from the highway. Therefore, this notice was challenged in W.P.No.2424 of 2013. By order dated 18.12.2013, the District Collector, Erode, was directed to consider and give alternate site to the petitioner and on the basis of the above, this Court had directed the question of eviction should be considered.

3. The petitioner would submit that though the alternate site is offered, it is completely unusable as soil there is a hardtop. Meanwhile, one Palanisamy had filed W.P.No.30315 of 2022 to remove the burial



ground and other writ petition in W.P.No.6815 of 2023 was also filed for the same relief. The writ petitions were disposed of recording the fact that the petitioners had agreed to give 3 meters width of lands for the extension of highway. The learned Judge observed that the possession is to be taken by the Government. The petitioner would submit that by virtue of this compromise, an extent to the above width was also carved out. While so, the petitioner has received notice for the enquiry on 04.07.2024 and this notice was sought to be challenged.

4. Heard the learned counsels on either side.

5. From the documents, it is seen that the respondents had offered an alternate site which was not agreed to by the petitioner. The petitioner's suit for injunction filed against the respondents is now pending before this Court in S.A.No.580 of 2020. Therefore, considering the above facts and as no agreement has been reached by the parties, the petitioner shall await the result of the said Second



W.P.No. 20688 of 2024

Appeal and thereafter renew the request of the petitioner.

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

04.12.2024

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

ssn

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5/7



W.P.No. 20688 of 2024

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Erode District.

P.T.ASHA, J.,

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WEB COPY



W.P.No. 20688 of 2024

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