



WEB COPY

W.P. No.22484 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.08.2024

DELIVERED ON: 05.08.2024

CORAM:

THE HON'BLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.No. 22484 of 2024

and WMP. Nos.24493 & 24496 of 2024

Ponnusamy

.. Petitioner

Vs

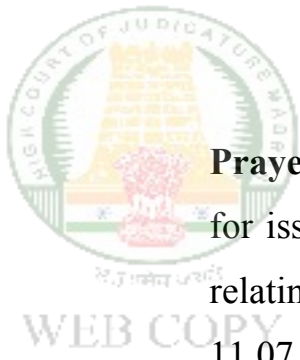
1. Director of Town Panchayats,
Directorate of Town Panchyats,
7th & 8th Floor,
Urban Administrative Office Campus,
Chennai – 600 028.

2. The District Collector,
Coimbatore District Collector Office,
Coimbatore.

3. The Tahsildar,
Sulur Taluk,
Coimbatore.

4. The Executive Officer,
Mopperipalayam Town Panchayat,
Vagarayamplayam,
Coimbatore – 641 659.

.. Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings in Na.Ka.No.1575/2024/A4 dated 11.07.2024 insofar as it relates to S.No.5 of Annexure DTP-KNMT 2024-25 -29th PSMC- Crematorium for the proposed work of LPG Gasifier Crematorium at Vagarayampalayam Burial Ground in Ward No.6, S.No.113/1 at Moppiripalayam Town Panchayat, Coimbatore and quash the same and consequently direct the Respondents herein to shift the existing burial ground situate at S.F. No.113 in Mopperipalayam Village to some other place outside the village based on the representation dated 12.02.2024 in accordance with law and within a stipulated period.

For Petitioner : Mr.K.Govi Ganesan

For Respondents : Mr.A.Edwin Prabakar,
State Government Pleader for R1 to R3
Mr.M.Habeeb Rahman,
Government Advocate for R4

ORDER

(Order of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The petitioner, styling this Writ Petition as a Public Interest Litigation has approached this Court seeking the issuance of a writ of Certiorarified Mandamus, to call for the records relating to proceedings in



Na.Ka.No.1575/2024/A4 dated 11.07.2024, insofar as it relates to S.No.5 of Annexure DTP-KNMT 2024-25 - 29th PSMC- Crematorium in and whereby the proposed work of LPG Gasifier Crematorium at Vagarayampalayam Burial Ground in Ward No. 6, S.No.113/1 at Moppiripalayam Town Panchayat, Coimbatore is challenged and further directions have been sought to shift the existing burial ground situate at S.F.No.113 to some other place outside the village, based on the petitioner's representation dated 12.02.2024.

2. We have heard Mr.K.Govi Ganesan, learned counsel for the petitioner and Mr.A.Edwin Prabakaran, learned State Government Pleader, appearing for Respondents 1 to 3 and Mr.M.Habeeb Rahman, learned Government Advocate, appearing for the 4th Respondent.

3. By consent of the learned counsel for the parties, the main writ petition is itself taken up for disposal.

4. The learned counsel for the petitioner would submit that the petitioner is a resident of Vagarayampalayam, Mopperipalayam village, Coimbatore District and he has filed the writ petition only in the interest of



the general public.

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5. According to the learned counsel for the petitioner, the burial ground situated at S.F.No.113/1 Mopperipalaym village is situate close to the Government Hospital and also a School (350 metres and 250 metres away respectively). Further the learned counsel for the petitioner would submit that, now the respondents are proposing to convert the existing burial ground into a gasifier Crematorium. The grievance of the writ petitioner is that, already there has been a representation to shift the burial ground itself, outside the village and without heeding to such request, now the respondents are trying to convert the same into LPG Gasifier Crematorium with additional facilities which would cause serious prejudice to the resident public in the locality.

6. The learned counsel would also submit that the burial ground is in contravention of Rule 7 of the Tamil Nadu Village Panchayat (Provision of Burial and Burning Grounds) Rules, 1999. The learned counsel for the petitioner would further submit that there are several alternate government poramboke lands available in the village which can be used for the purposes of burial ground and the LPG Gasifier Crematorium. Hence the petitioner



has approached this Court seeking the above mentioned relief.

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7. Per contra, the learned State Government Pleader, Mr.A.Edwin Prabakaran, on written instructions would submit that the burial ground has been in existence for more than 100 years and there has been no objection from any local residents all these years and moreover, the installation of the gasifier crematorium would only work to the advantage of the residents and the surrounding villages. He would further submit that the petitioner has agricultural lands situate about 100 metres away from the burial ground and only in private interest, the petitioner has approached this Court with ulterior motives and there is no element of public interest involved in the writ petition and he therefore, seeks for the dismissal of the Writ Petition.

8. We have paid our anxious consideration to the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

9. Admittedly, Survey No. 113/1 measuring 1 acre and 43 cents (0.58.5 hectares) is classified only as burial ground (mayanam) in the A Register, Adangal as well as FMB records. It is also an admitted fact that the



burial ground has been in existence for several decades, in fact close to 100 years now and excepting for the present complaint put forth by the writ petitioner, there have been no protests or complaints whatsoever by any member of the general public. It is also seen from the written instructions forwarded by the learned counsel for respondents that the decision to install a gasifier in the existing burial ground is only after careful deliberations made by the District Collector, Coimbatore and all the other officials concerned. It is also seen that a work order has been issued in Roc. No. 105/2024 dated 06.08.2024 for construction of the gasifier crematorium in Vagarayampalayam burial ground. The petitioner has not been able to satisfy this Court as to how any prejudice would be caused to the local residents if the gasifier crematorium is added to the existing burial ground, especially if in light of the admitted fact that the burial ground has been existing for close to 100 years now. In any event, the survey number is also classified only as burial ground and therefore, the respondent Authorities cannot be found fault with for taking a policy decision to install a gasifier crematorium inside the existing burial ground.

10. Insofar as the argument of the learned counsel for the petitioner placing reliance on Rule 7 of the Tamil Nadu Village Panchayat (Provision



of Burial and Burning Grounds) Rules, 1999, we are unable to countenance the said argument for the simple reason that the said Rule itself enables burial or burning of a corpse in a licensed place such as a burial and burning ground. Admittedly, in the instant case, Survey Number 113/1 is earmarked only for burial ground and the same is also reflected in the revenue records as well.

11. Apart from the above, we also cannot discount the fact that the petitioner is also stated to be owing agricultural lands in the vicinity of the burial ground and apprehending that the market value of his property may go down alone, he has filed the present writ petition, as if he is espousing the cause of the general public. For all the above reasons, we do not find any merit in the Writ petition and it is in fact highly doubtful if really the writ petition has been filed in genuine public interest or whether it has been filed to espouse the private interest of the petitioner alone. We therefore, do not find any justifiable grounds or reasons to entertain the writ petition.

12. In fine, the writ petition is dismissed and consequently, connected Miscellaneous Petitions are also dismissed. There shall be no order as to costs.



(D.K.K., A.C.J.,) (P.B.B.J.,)

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05.08.2024

Internet: Yes/No
Index : Yes/No
Speaking Order/Non Speaking Order
rkp

To

1. Director of Town Panchayats,
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THE HON'BLE ACTING CHIEF JUSTICE

and

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Pre-delivery Order in

W.P. No.22484 of 2024

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