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W.P.No.23182 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM:

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

W.P.No.23182 of 2024
and W.M.P.No.25340 of 2024

M/s.Arudhra Enterprises
Rep By Its Partner
Dwarakanath

... Petitioner

-Vs-

1. The District Collector,
O/o. The District Collectorate,
3rd Floor, Tiruchengode Main Road,
Namakkal- 637 003.
2. The Revenue Divisional Officer,
Thillaipuram, Namakkal-637 001.
3. The Tahsildar,
VIP Nagar, Rasipuram Taluk,
Namakkal District- 637 408.
4. The Village Administrative Officer,
Athanur Town Panchayat, Namakkal District.
5. The Executive Officer,
Athanur Town Panchayat, Athanur,
Namakkal District.



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6. Assistant Director (Mines)
District Collectorate Campus,
Tiruchengode Main Road,
Namakkal-637 003.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the impugned proceedings of the 5th Respondent in Na.Ka.No.87/ 2024 dated 12.07.2024 and quash the same as illegal ultravires and violation of natural justice and consequential direction directing the 1st respondent to maintain the lands in S.No.1/3, Athanur Village, Rasipuram Taluk, as temple poramboke lands.

For Petitioner	: Mr.M.Sriram
For R1 to R4	: Mr.M.S.Arasa Kumar Government Advocate
For R5	: Mr.P.Ananda Kumar Government Advocate
For R6	: Mr.E.Vijay Anand Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the fifth respondent dated 12.07.2024, thereby rejected the objections raised by the petitioner not to put up burial ground in S.No.1/3, Athanur Village, Rasipuram Taluk and maintain the same as temple poramboke land.

2. Heard both sides the perused the materials available on record.



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3. The petitioner and his sister owned land comprised in S.No.1/2A to an extent of 1.06.5 hectares, in S.No.2/1 to an extent of 075.5 hectares, in S.No.2/3A to an extent of 0.19.0 hectares, in S.No.2/3B1 to an extent of 0.45.5 hectares and in S.No.2/3C to an extent of 0.85.5 hectares totaling to the extent of 3.32 hectares in Athanur Village, Rasipuram Taluk, Namakkal District. The petitioner had applied for Granite Quarry License for the said land and it is pending for consideration on the file of the first respondent. Originally, the quarry license was granted to M/s Magam Inc., Madras who operated the Granite Quarry for a period of ten years from 1991 to 2001. The adjacent land is Government revenue land comprised in S.No.1/1A, 1B, 1C, 2/2A, Annamalaipatti which is nearer to the petitioner's land.

4. The learned counsel for the petitioner would submit that on receipt of the representation from the general public, the fifth respondent intended to set up a burial ground adjacent to the land comprised in S.No.1/3, Athanur Village, Rasipuram Taluk. Adjacent to the said land, there are patta lands and in fact, all general public raised objections to set



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up burial ground. The said land is non-suited for burial ground, since the distance specified under the Tamil Nadu Village Panchayat (Provision of burial and burning grounds) Rules, 1999 clearly prohibits burning or burying any corpse in any place within 90 meters of the dwelling place or source of drinking water supply.

5. The land owned by the petitioner is also situated adjacent to the land which was now intended to be set up as burial ground by the fifth respondent. Therefore, the petitioner also raised objections before the fifth respondent not to set up any burial ground in the land comprised in S.No.1/3, Athanur Village, Rasipuram Taluk.

6. He further submitted that the application submitted by the granite quarry license renewal is also pending for consideration. In fact, on receipt of the said application, the third respondent issued its communication dated 09.11.2020 for inspection and also to obtain no objection from the villagers. The third respondent conducted an inspection and submitted a report before the second respondent and it is pending for approval. Therefore, if the fifth respondent is permitted to set



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up a burial ground, the petitioner's application for renewal of granite quarry license could not be considered, since it violates Rule 7 of the Tamil Nadu Village Panchayat (Provision of burial and burning grounds) Rules, 1999. Without considering the same, the fifth respondent rejected the objections raised by the petitioner.

7. A perusal of records and on submissions made by the learned counsel for the respondents, on instructions revealed that the land which is selected for setting up the burial ground i.e., S.Nos.1/3 and 1/4 are classified as Kundru Poramboke and burial ground respectively. Therefore, the said lands were selected for setting up gas incineration platform (cremation). Accordingly, the Director of Town and Panchayat allotted funds to the tune of Rs.149 lakhs to set up cremation centre. The petitioner, being the owner of the land comprised in S.Nos.1/2A, 2/1, 2/3A, 2/3B1 and 2/3C has no locus to object setting up of cremation centre in the land comprised in S.No.1/3, Athanur Village, Rasipuram Taluk. In fact, on receipt of the request from the general public, it was intended to set up a cremation centre. Accordingly, now, fund has been allotted.



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8. In view of the above, the objections raised by the petitioner was rightly rejected by the fifth respondent and this Court finds no infirmity or illegality in the order passed by the fifth respondent and the writ petition is devoid of merits and is liable to be dismissed.

9. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

14.08.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order

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