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W.P. No. 25454 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 25454 of 2023

and

W.M.P. Nos. 24843 and 24844 of 2023

1. T.V.Amshalingam
2. D.Suresh
3. S.Kirthiga
4. S.Parthiban
5. G.Rajesh
6. G.Balaji

... Petitioners

-VS-

1. District Collector, Thiruvallur
Thiruvallur District.
2. Chembarambakkam Minor
Panchayat Rep. By its President
Chembarambakkam, Tiruvellore District.
3. Block Development Officer /Commissioner
Poonamallee Panchayat Union
Poonamallee, Tiruvellore District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the Respondents or any body claiming through them from in any way interfering with peaceful possession and enjoyment of Petitioners lands comprised in S.No. 146/5, 146/6, 146/7, 146/16, 236/1, Chembarambakkam Village, Thiruvallur District without due process of law, to form or attempt to form a pathway in the middle of



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Petitioners lands to the grave yard situated in S. No. 271/2 in Chembarambakkam Village, Thiruvallur District.

For Petitioners : Mr. N.Krishna Kumar

For Respondents : Mr. S.Prahakaran,
Government Advocate (for R1)

Mr. M.Velmurugan (for R2)

Mr. G.Krishnaraja (for R3)

ORDER

Heard Mr. N.Krishna Kumar, Learned Counsel for the Petitioners, Mr. S.Prabhakaran, Learned Government Advocate appearing for the First Respondent, Mr. M.Velmurugan, Learned Counsel appearing for the Second Respondent and Mr. G.Krishnaraja, Learned Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed for restraining the Respondents or any body claiming through them from in any way interfering with peaceful possession and enjoyment of lands of the Petitioners comprised in Survey No. 146/5, 146/6, 146/7, 146/16 and 236/1 in Chembarambakkam Village,



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Thiruvallur District without due process of law and to form or attempt to form a pathway in the middle of their lands to the graveyard situated at Survey No. 271/2 in Chembarambakkam Village, Thiruvallur District.

3. In that backdrop, this Court during the earlier hearing on 22.11.2023 had required the jurisdictional Tahsildar along with Surveyor to inspect the property and measure the same with revenue records to ascertain as to whether the contentions of the Petitioners is factually correct and submit a report in that regard.

4. In furtherance to the said order, the Tahsildar, Poonamallee has filed status report dated 19.02.2024 stating as follows:-

“5. It is submitted that in compliance with the above order the Tahsildar had conducted the inspection again on 21.12.2023 in the present of Public Village Administrative Officer, Village President and surveyed the subject lands and fixed the boundaries it is pertinent to mention that the survey and filed inspection reveals that a Mud road passes through the lands in S.No. 236/1C2, 236/1A2, 236/2C1, 236/2D1, 236/2E1, 236/2F1, 236/5A, 146/5B, 146/6B, 146/7B/ 146/16B, 239/2A2, 239/3A



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and 246/1A1 to reach the burial ground situated in S.No. 271/2

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6. I submit that with reference to the Writ Petition filed by Thiru. Amsalingam in W.P. No. 25454 of 2023 regarding the usage of pathway to the burial ground through his patta lands. The pathway is being used to reach the burial ground located in S.No. 271/2 of Sembarambakkam Village, measuring an extent of 0.23.5 Acres.

The Pathway passes through the following survey numbers as detailed below. The details of lands, extent, pattadars are as follows:-

S. No.	Survey Number	Extent Hect / Areas	Classification	Patta No and Name of the Pattadhars	
1	236/1C2	0.15.5	Village Site	260	Shobana
2	236/1B2	0.15.0	Dry	1537	Amsalingam and 4 others
3	236/2C1	0.00.5	Dry	1537	Amsalingam and 4 others
4	236/2D1	0.00.5	Dry	1537	Amsalingam and 4 others
5	236/2E1	0.00.5	Dry	1537	Amsalingam and 4 others



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6	236/2F1	0.01.0	Dry	1537	Amsalingam and 4 others
7	236/5A	0.04.0	Dry	1537	Amsalingam and 4 others
8	146/5B	0.45.5	Dry	1537	Amsalingam and 4 others
9	146/6B	0.08.0	Dry	1537	Amsalingam and 4 others
10	146/7B	0.02.0	Dry	1537	Amsalingam and 4 others
11	146/16B	0.01.0	Dry	1655	Subramani
12	239/3A	0.01.5	Dry	581	Veerappan
13	240/1A1	0.06.0	Dry	3705	Baby
14	239/2A1C1	0.02.5	Dry	83	Poonamallee Kareem Saybu
15	239/2A2	0.03.0	Dry	1800	P.Jeyaraman
16	239/2A4	0.06.0	Dry	1341	A.Arokyasamy
17	239/2A1A1	0.63.87	Dry	2405	Poonamalle Kareem Saybu

7. *It is submitted that, out of the above fields, a pathway of width 10ft is in existence in Survey No. 239/2A1C1, 239/2A2, 239/2A4 and 239/2A1A1 without any Sub Division. Regarding the land in S. No. 240/1A1, it is marked as Plan Mark (Nilaviyal Pathai) in F.M. Book. On measurement of pathway to burial ground is running about 1200 feet in length and 10 ft to 12 ft in width. The burial ground has been used by the general public for several decades.*



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It is submitted that the road could not be closed due to it reaches burial grounds which create law and order during every death and there is no possibility of rerouting to reach the graveyard.

8. *It is pertinent to mention that despite the classification and ownership status it is essential to note that the closure of the Mud Road is not feasible. It is further submitted that the road serves as the only access route to the burial ground and rerouting is impractical to reach the graveyard during every funeral. It is most humbly submitted that attempting to close this road could lead to law and order issues. The Inspection report, Revenue records and the detailed sketch are enclosed herewith.”*

In view of the aforesaid action taken, nothing remains for further consideration in the Writ Petition, but if the Petitioners still have any grievance to be redressed in the matter, they are not precluded from working out their remedies before the proper forum in the manner recognized by law.



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In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

20.02.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 02.04.2024.

Maya

To

1. The District Collector, Thiruvallur
Thiruvallur District.
2. The President
Chembarambakkam Minor Panchayat
Chembarambakkam, Tiruvellore District.
3. The Block Development Officer /Commissioner
Poonamallee Panchayat Union
Poonamallee, Tiruvellore District.



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P.D. AUDIKESAVALU, J.

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