



W.P.No.33372 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM:

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

W.P.No.33372 of 2019

R.Gokila

... Petitioner

-Vs-

1. The District Collector,
Coimbatore District,
Collectorate Building,
State Bank Road,
Coimbatore 641 018.

2. The Tahsildar,
Taluk Office,
Mettupalayam,
Coimbatore 641 301.

3. The President,
Thekkampatti Panchayat,
Thekkampatti,
Mettupalayam Taluk,
Coimbatore District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the third respondent from forming a burial ground adjacent to the petitioner's property situated in Survey No.116/6, Thekkampatti Village, Mettupalayam Taluk, Coimbatore in contravention of the Tamil Nadu



W.P.No.33372 of 2019

Village Panchayats (Provision of Burial and Burning Ground) Rules 1999.

For Petitioner : Mr.Govind Chandrasekhar
For R1 and R2 : Mr.V.Manoharan
Additional Government Pleader

ORDER

This writ petition has been filed forbearing the third respondent from forming a burial ground adjacent to the petitioner's property situated in Survey No.116/6, Thekkampatti Village, Mettupalayam Taluk, Coimbatore in contravention of the Tamil Nadu Village Panchayats (Provision of Burial and Burning Ground) Rules 1999.

2. Heard and perused the materials available on record.

3. The petitioner owned agricultural land comprised in S.No.116/6, Thekkampatti Village, Mettupalayam Taluk, which was purchased under the registered sale deed dated 27.03.2018 registered vide Document No.2200 of 2018. It is bounded on the eastern side by a water channel called the “Singeri Pallam”. Though there are two burial grounds already in existence in the village, the third respondent attempted to form a burial ground in the said land adjacent to the petitioner's property. It is a water



W.P.No.33372 of 2019

channel and during rainy season, the entire rain water flows in the water channel to reach its destination.

4. That apart, the construction of burial ground is governed by the Tamil Nadu Village Panchayat (Provision of Burial and Burning Ground) Rules 1999. It is notified in exercise of powers under Section 242 of the Tamil Nadu Panchayat Act, 1994. It contemplates that no new burial ground can be formed without license from the Panchayat.

5. It is relevant to extract Rule 7(1) of Tamil Nadu Village Panchayat (Provision of Burial and Burning Ground) Rules 1999 as follows:-

“ 7. Place for burial and burning grounds:-

(1) No person shall bury or burn or cause to be buried or burnt any corpse in any place within ninety metres of a dwelling place or source of drinking water-supply other than a place licenced as a burial and burning ground.”

Thus, it is clear that no burial ground can be formed within 90 metres of a dwelling place or source of drainage water supply.

6. Admittedly, the water channel is the source of drinking water to



W.P.No.33372 of 2019

the general public. The second respondent also submitted FMB that the land comprised in S.F.No.116/4 in Thekkampatti Village, Mettupalayam Taluk is classified as Vari Poromboke. During the rainy season, the rain water flows through the said land. During inspection done by the Field Officer, it was found that the subject land is filled up with full of water due to heavy rain. It shows that the entire rain water flows into the subject land during rainy season. That apart, there is no proposal to form any burial ground in the subject land. The report further says that the petitioner encroached some part of the land comprised in S.F.No.116/4, which is classified as Vari Poromboke.

7. In view of the above, the respondents are restrained from forming any burial ground in the land comprised in S.F.No.116/6 situated at eastern side of the petitioner's property comprised in S.F.No.116/6A. Further, the second respondent is directed to survey the land and if any encroachment is made by the petitioner in the land comprised in S.F.No.116/4, Thekkampatti Village, Mettupalayam Taluk, Coimbatore, the second respondent is at liberty to take appropriate action as against the petitioner to remove the encroachment in accordance with law.



W.P.No.33372 of 2019

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8. With the above directions, this writ petition is disposed of.

There shall be no order as to costs.

29.10.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

mn

G.K.ILANTHIRAIYAN. J.

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To

Page 5 of 6

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W.P.No.33372 of 2019

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