



W.P.(MD)No.1137 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD)No.1137 of 2019
and
W.M.P.(MD)No.958 of 2019**

Shankar, S/o.Sonaimuthu

... Petitioner

-VS-

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.

3.The Executive Officer,
T.Siruvayal Village,
Keelapoongudi Group,
Karaikudi Taluk,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent to consider and pass orders on the representations preferred by the petitioner, dated 22.12.2018 and 23.10.2017 regarding shifting of the illegal burial ground or forbearing the usage



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of land in Survey No.39/3, T.Siruvayal Village, Keelapoongudi Taluk, Karaikudi Taluk, Sivagangai District, for the purpose of burying dead bodies, within the time stipulated by this Court.

For Petitioner : Ms.H.Jasima Yasmin
for M/s.Ajmal Associates

For Respondents : Mr.P.Thilakkumar
Government Pleader

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Prayer in the Writ Petition reads as follows:-

"To issue a Writ of Mandamus directing the first respondent to consider and pass orders on the representations preferred by the petitioner, dated 22.12.2018 and 23.10.2017 regarding shifting of the illegal burial ground or forbearing the usage of land in Survey No.39/3, T.Siruvayal Village, Keelapoongudi Taluk, Karaikudi Taluk, Sivagangai District, for the purpose of burying dead bodies, within the time stipulated by this Court."

2. It is the contention of the petitioner that there is a lake on the land in Survey No.39/3 and that this area has not been designated as a burial ground.



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3. Mr.P.Thilakkumar, learned Government Pleader appearing for the respondents has produced the revenue records which go to show that Survey No. 39/3 is in fact classified as a burial ground. The F.M.B. Sketch also shows that there have been some burials in the said land.

4. The learned counsel appearing for the petitioner would attempt to rely upon Rule 7 of the Tamil Nadu Village Panchayats [Provision of Burial and Burning Grounds] Rules, 1999 [hereinafter referred to as "the Rules"]. Rule 7 of the Rules is to the effect that no burial or burning shall take place within 90 meters from an existing drinking water source or a dwelling house unless the said place is designated as a burial ground. Therefore, the ban is not absolute. It is subject to the authorities notifying the land as a burial ground or burning ground.

5. Apart from the above, the prohibition is only within 90 meters from a drinking water source. The Village Administrative Officer of Keelapoongudi Village has clearly stated that though there is an Oorani or a lake in Survey No.39/2, the same is not used for drinking purposes and therefore, the prohibition contained in Rule 7 of the Rules will not apply.



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6. In the light of the above facts, particularly, the fact that the land in question has been classified as a burial ground even in the Village records, we do not think that the Mandamus sought for by the petitioner can be granted. Hence, the Writ Petition fails and it is accordingly, dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : No
Index : No
smn2

[R.S.M., J.] [L.V.G., J.]
09.09.2024

To:-

- 1.The District Collector,
Sivagangai District,
Sivagangai.
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