



W.P.(MD)No.2448 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM:

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

**W.P.(MD)No.2448 of 2014
and
M.P.(MD)Nos.2 and 3 of 2014**

1.D.Manjamalai Pandian
2.M.Panjaraj
3.C.Chinnathambi
4.S.Varadarajan
5.P.Sivakumar
6.A.Pitchaikani
7.M.Alagamuthu

... Petitioners

-VS-

1.The Secretary to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.

2.The District Collector,
Virudhunagar District,
Virudhunagar.

3.The Revenue Divisional Officer,
Arupukottai,
Virudhunagar District.



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- 4.The Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.
- 5.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 6.The Deputy Superintendent of Police,
Virudhunagar.
- 7.The President,
Renganathapuram Village Panchayat,
Virudhunagar.
- 8.The Salvation Army Church,
Rep by its Priest, Aalwin,
Burial Ground,
Rosalpatti Village,
Virudhunagar.
- 9.D.Dharmar
- 10.M.Paramanantham
- 11.D.Samidoss
- 12.P.Krishnan
- 13.P.Athiappan
- 14.R.Rajkumar
- 15.Sundari
- 16.P.Moorthy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 7 to restrain the encroachers - respondents 8 to 16 from interfering with the burial/cremation of the dead bodies of Rosalpatti Village public in the burial ground in Survey No. 104/2, in Rosalpatti Village, Virudhunagar District and also to give protection to



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the public of Rosalpatti Village to bury/cremate the dead bodies in the said burial ground.

For Petitioners : Mr.T.Sakthi Kumaran
for M/s.Victory Associates

For R1 to R4 : Mr.P.Thilakkumar
Government Pleader

For R5 and R6 : Mr.B.Thanga Aravindh
Government Advocate (Criminal side)

For R7 to R9, R11, R13 &
R14 : No Appearance

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 respondents 1 to 7 to restrain the encroachers - respondents 8 to 16 from interfering with the burial/cremation of the dead bodies of Rosalpatti Village public in the burial ground in Survey No.104/2, in Rosalpatti Village, Virudhunagar District and also to give protection to the public of Rosalpatti Village to bury/cremate the dead bodies in the said burial ground."

2. By order dated 18.12.2018, the jurisdictional Revenue Divisional Officer namely, Revenue Divisional Officer, Aruppukkottai, was directed to



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inspect the land along with the jurisdictional Tahsildar and file a report detailing whether any unauthorized constructions, including a Church, have been erected on Government land. It was also directed to indicate the nature of the land.

3. Pursuant to the said direction, the Tahsildar, Virudhunagar, has filed a report stating that though the land in S.No.104/2, classified as Government Poramboke Oodai, was previously used as a burial ground, it is no longer utilized for that purpose. The people are using the Government burial ground in S.Nos. 105/2 and 105/4 etc. It is also stated that there are 150 families belonging to a particular community residing in the vicinity of the said burial ground for the past 20 years, since 2018. The Tahsildar, Virudhunagar, has also submitted a report dated 19.08.2024, wherein it is stated that the land in S.No.104/2 measuring an extent of 0.26.50 Ares is classified as Government Poramboke Oodai. This land was previously used as a burial ground by people from two communities in the Village. However, due to objections from residents of the area, use of this land as a burial ground has ceased. Now, the members of the two communities namely, Pillaimar and Naickers are using the common burial grounds situated at S.Nos. 105/2 and 105/4 etc.



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4. In view of the said reports and the fact that the land in question has been classified as Government Poramboke Oodai, we do not think the prayer as sought for in this Writ Petition cannot be granted.

5. It is the contention of the learned counsel for the petitioners that even assuming that the land in question has been classified as Government Poramboke Oodai, the encroachment should still be removed.

6. We do not want to pronounce on that issue in this Writ Petition, since there is no prayer in that regard. Liberty is reserved to the petitioners to seek such prayer, if they so advised, separately.

7. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : No
Index : No
smn2

[R.S.M., J.] [L.V.G., J.]
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To:-

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- 4.The Tahsildar,
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- 5.The Superintendent of Police,
Virudhunagar District,
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- 6.The Deputy Superintendent of Police,
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- 7.The President,
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Virudhunagar.



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and
L.VICTORIA GOWRI, J.

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