



W.P(MD)No.19298 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE SUNDER MOHAN**

**W.P(MD)No.19298 of 2017
and
WMP(MD)No.15620 of 2017**

T.Kumar

... Petitioner

vs.

1. The District Collector,
Thanjavur District.

2. The Project Director,
District Rural Development Agency,
Thanjavur District.

3. The Revenue Divisional Officer,
Thanjavur-613 007,
Thanjavur District.

4. Block Development Officer,
Kumbakonam,
Thanjavur District.

5. The Tahsildar,
Kumbakonam,
Thanjavur District.

6. The Revenue Inspector,
Ullur Panchayat,
Kumbakonam Taluk,
Thanjavur District.

7. Masjid Alnuroor Rashath (SunathJamath)

<https://www.mhc.tn.gov.in/judis>



W.P(MD)No.19298 of 2015

Rep.By its President,
Muthaiya Nagar,
Kumbakonam-612001.

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8. A.Jahangir

9. A.Abdul Kaboor

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Order in Se.Mu.Na.Ka.4069/2015/AA2 dated 13.03.2017 passed by the 4th respondent Block development Officer, quash the same and further direct the respondents 1 to 6 herein to forbear the respondents 7 to 9 from using the land at Survey No.70/10, Bismilla Nagar, Annai Anjugam Nagar (via), Ullur Kumbakonam, Thanjavur District, as burial/cremation ground in as much as the same within the prohibited zone in terms of the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules 1999 and consequentially direct the respondents to remove forthwith the corpse buried unlawfully in the said land.

For Petitioner	: Mr.T.Cibi Chakraborty for Ms.M.R.Preethi
For R1 to R6	: Mr.P.Thilakkumar, Government Pleader
For R7 to R9	: Ms.H.Jasima Yasmin for M/s.Ajmal Associates

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

The petitioner is aggrieved by the action of the Special Officer,
Ullur Panchayat cum Block Development Officer, Kumbakonam, in notifying



the land in Survey No.70/10 as a burial ground for Muslims.

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2. The basic contention of the petitioner is that the area is a developed residential locality and there are houses situate around the land in Survey No.70/10 which has been purchased by the private respondents and compounded. The petitioner would aver that there are houses abutting the compound wall of the area now designated as a burial ground.

3. On filing of the writ petition, a counter affidavit was filed by the Block Development Officer, Kumbakonam, on 27.11.2017 claiming that there is no violation of The Tamil Nadu Village Panchayats (Provision of burial and burning grounds) Rules, 1999. The counter affidavit further reads as follows:

".. Further, it is submitted that the burial ground zone and dwelling place or source of drinking water supply is more than 90 meter from the near by constructed houses."

4. We have extracted the statement in the counter affidavit as we are unable to fathom what was intended by the above sentence. Rule 7 of The Tamil Nadu Village Panchayats (Provision of burial and burning grounds) Rules, 1999, enacts a prohibition from designating any area as a burial and burning ground if it is situate within 90 metres from a dwelling place or a drinking water source. After the filing of the counter affidavit, pursuant to the



orders of this Court, it appears that the Block Development Officer inspected the area and she has filed a status report wherein, it is clearly admitted that there are houses within 90 metres from the area which has now been designated as a burial ground. This is in direct contravention of the rules. However, an attempt is made by the officer to paint the petitioner black by saying that the petitioner has put up the construction without getting planning approval. While it is open to the officer to take action for violation of planning approval or construction without planning approval, that cannot be a ground to locate a burial ground next to the petitioner's house.

5. In view of the above, the order impugned dated 13.03.2017 is quashed on the sole ground that it is in violation of the rules particularly Rule 7 of The Tamil Nadu Village Panchayats (Provision of burial and burning grounds) Rules, 1999.

6. The learned counsel for the private respondents would submit that the Muslims living in the area have no separate burial ground and they are forced to travel for 8 kilometers.

7. There will be a direction to the District Collector, Thanjavur, to designate any area within close proximity to the Kumbakonam Town as a burial



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ground for Mohamedians and such area designated shall conform to the requirements of the rules. If the Muslims belonging to the area submit an application, the appropriate authority will pass orders on the application within a period of twelve weeks from the date of submission of the application.

8. The Writ Petition will stand allowed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M, J.) (S.M, J.)
24.09.2024

Index : Yes / No
Neutral Citation : Yes / No
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ORDER MADE IN
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