



W.P(MD)Nos.27298 of 2023 & 1126 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.P(MD)Nos.27298 of 2023 & 1126 of 2024
and**

W.M.P(MD)Nos.23425 of 2023, 1146, 1147, 12226 & 12231 of 2024

1.W.P(MD)No.27298 of 2023:

A.Veeravijayan

... Petitioner

VS.

- 1.The District Collector,
District Collectorate Office,
Ramanathapuram District.
- 2.The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.
- 3.The Assistant Director of Panchayat,
District Collectorate Office,
Ramanathapuram District.
- 4.M.Jeyalakshmi
- 5.K.Rajesh
- 6.Aridoss
- 7.Vittaldass
- 8.Kalanchiyaraja
- 9.Lakshmi Narayanan
- 10.Senthilkumar
- 11.Nagarajan

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12.Venkadasamy

13.Kuppusamy

14.Gopiraja

... Respondents

(R5 to R14 are impleaded vide order dated 18.12.2023
in W.M.P(MD)No.25607 of 2023)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to direct the fourth respondent to remove the illegal fencing and board in front of the petitioner's property and not allow to use that place as burial ground, based on his representation dated 25.07.2023.

For Petitioner

: Mr.M.Subash Babu
Senior Counsel

For Respondents

: Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.N.Satheesh Kumar
Additional Government Pleader
for R.1 to R.3

: Mr.C.Jeganathan
for R.4

: Mr.M.Saravanan
for R.5 to R.14

2.W.P(MD)No.1126 of 2024:

A.Veeravijayan

... Petitioner

vs.

1.The District Collector,
District Collector Office,
Ramanathapuram District.

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2.The Assistant Director of Panchayat,
District Collectorate Office,
Ramanathapuram District.

3.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

4.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the impugned proceedings passed by the first respondent in Na.Ka.No.P4/50012/2023, dated 01.12.2023 and quash the same.

For Petitioner

: Mr.M.Subash Babu
Senior Counsel

For Respondents

: Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.N.Satheesh Kumar
Additional Government Pleader
for R.1 to R.4

COMMON ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought for in W.P(MD)No.27298 of 2023 is for a Writ of Mandamus, to direct the respondents 1 to 3 to direct the fourth

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respondent to remove the illegal fencing and board in front of the petitioner's property and not allow to use that place as burial ground, based on his representation dated 25.07.2023.

2. The prayer sought for in W.P(MD)No.1126 of 2024 is for a Writ of Certiorari, to quash the impugned proceedings passed by the first respondent in Na.Ka.No.P4/50012/2023, dated 01.12.2023.

3. The petitioner had purchased the property at Survey No.102/2B2C1 to the extent of 10.82 cents situated at Kattoorani Village, Ramanathapuram District. In the said place, he has constructed a small house for residential purposes. For the said village people, there has been a burial ground constructed at Survey No.98/4. However, just in front of the dwelling house of the petitioner on the southern side, there was vacant land, which was used by some of the people in the Village as a burial ground or a cremation ground. Only after coming to know surprisingly that the adjacent vacant land, since has been used as a burial or cremation ground, the petitioner had approached the authorities to provide an alternative site for them and also fencing that had been put up by some third parties to be removed. With these prayers, the petitioner had approached this Court by filing the aforesaid Writ Petitions.



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4. Heard the learned counsels appearing for both sides.

5. During the last hearing on 06.06.2024, we have passed the following order:

The 1st respondent / District Collector, Ramanathapuram is hereby directed to file a report, after exploring the possibility of providing alternative land or site for the purpose of cremation ground for the particular community people, as the present cremation ground, which they are using, is very much abutting the main road, where the children are moving towards the School and the next plots are developed as house sites and dwelling houses are being built.

2.Since the learned Additional Advocate General appearing for the official respondents seeks two weeks time to get a report from the 1st respondent / District Collector, Ramanathapuram, post the matter on 19.06.2024.

6. Pursuant to the said order, when the case is taken up for hearing, the first respondent/District Collector has filed a report dated 18.06.2024 where, inter alia, he has stated the following:



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6) எனவே குறிப்பிட்ட அமுதாய மக்களுக்கு மயானமாக பயன்படுத்த மாற்று இடம் வழங்குதல் தொடர்பாக, பட்டணம்காத்தான் கிராம புல எண் 417/3 கிராமக் கலாக்கில் அரசு புஞ்சை- தீர்க்கை ஏற்பட்ட தரிசு என தாக்கலாகியவரும் இடம் தேர்வு செய்யப்பட்டுள்ளது. தேர்வு செய்யப்பட்ட இடம் கிழக்கு கடற்கரை சாலைக்கு அருகில் உள்ளது. மேலும், மேற்படி இடத்தில் பட்டணம்காத்தான் ஊராட்சி மக்கள் பொது மயானமாக பயன்படுத்தினதும் இடம் உள்ளது. அதற்கு அருகில் பேராலூர் ஊராட்சி நாயக்கர் அமுதாய மக்கள் எரியூட்டும் மயானமாக பயன்படுத்தாததற்கு 10 சென்ட் நிலம் ஒதுக்கிடு செய்ய தேர்வு செய்யப்பட்டுள்ளது. மேற்படி இடத்தினைச் சுற்றி வடக்கு, தெற்கு, கிழக்கு புறத்தில் புல எண் 417/3 இன் பகுதி நிலங்கள் தரிசாகவும், மேற்கு புறம் கிழக்கு கடற்கரை சாலை மற்றும் பட்டணம்காத்தான் ஊராட்சி மக்கள் பயன்படுத்தும் பொது மயானம் ஆகியவை உள்ளன. தற்போது மயானம் அமைக்க தேர்வு செய்யப்பட்டுள்ள நிலம் பேராலூர் ஊராட்சிவிடமிருந்து சுமார் 4 கி.மீ. தொலைவில் உள்ளது. மேற்படி இடம் தேர்வு செய்யப்பட்ட விரைத்தினை மாண்புமிகு உயர் நீதிமன்றத்தின் தெரிவித்து, அரசின் நலன் காத்திருமாறு கேட்டுக்கொள்கிறேன்.

ஒன்பாடிகிழக்குச்சந்திரன்,
மாவட்ட ஆட்சியர்,
கிராமநாதபுரம்.

/// உத்தரவுப்படி ///

மாவட்ட ஆட்சியருக்காக,
கிராமநாதபுரம்.

7. Relying upon this report of the District Collector, the learned Additional Advocate General appearing for the official respondents would contend that in order to avoid this controversy, the District Administration with the help of the local authorities has found out a place at Survey No.417/3 in Pattanamkathan Village, which is very adjacent to the East coast road. Moreover, in the nearby area, the people of the village



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Pattanamkathan have been generally using it as a burial ground. Next to the said place, yet another burial ground for another set of people also is available. 10 cents of land now has been identified in the said survey number for the purpose of burial ground exclusively for this community people as they can conveniently use this newly allotted land for the purpose of burial ground for the community people, instead of making the burial or cremation in front of the house of the petitioner.

8. We have considered the said submissions made by the learned counsel appearing for both sides and have gone through the materials placed before us.

9. Whenever the Village or Town is getting expanded due to a swelling population, these kinds of civic amenities are more required. At one point of time, there might have been a burial ground, where there could not have been any human habitations. However, of late, if the Village or Town develops, this kind of activity of burial or cremation of dead bodies should be undertaken in a place without giving any hindrance to the habitants.



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10. Here in the case in hand, it is not only the objection of the petitioner but also since the empty place being used as a burial ground now is abetting the road and through the road only, the young children are going to the nearby School and some photographs also had been filed on behalf of the petitioner which suggests that almost abetting the road, such kind of cremation is taken place of a dead body, which is being witnessed by the children while they are moving towards the School, therefore, certainly, that kind of situation can be avoided by the civic authorities. Therefore, the move now has been taken by the District Administration headed by the District Collector to identify an alternative site for the burial and cremation of the said people of the community concerned in the Village seems to be a more suitable place. When that being so, the District Collector and the other official respondents including the authorities of the local bodies are hereby directed to make all arrangements in the newly identified land for the purpose of burial ground for this community people and once such arrangements are made by the District Administration with the help of the local bodies that land can be put into use as a burial ground for the said community people. The present place since is abetting in the road, which can be taken by the District Administration and can be utilized for any other public purposes at the choice of the District Administration.

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11. With these directions, these Writ Petitions are ordered accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[R.S.K.,J.] [G.A.M.,J.]
09.07.2024

NCC : Yes / No

Index : Yes / No

ps

To

- 1.The District Collector,
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Ramanathapuram District.
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R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

ps

ORDER MADE IN
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DATED : 09.07.2024

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