



W.P.(MD)Nos.16740 of 2015 & batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.02.2026

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

**W.P.(MD)Nos.16740 and 17121 of 2015
and**

**W.P.(MD)No.2955 of 2018
and**

**M.P.(MD)Nos.1, 1, 2 and 2 of 2015
and**

**W.M.P.(MD)No.18970 of 2017
and**

W.M.P.(MD)Nos.3121, 3122 and 4731 of 2018

W.P.(MD)No.16740 of 2015:-

A.A.Jaffer Ali

... Petitioner

Vs.

- 1.The Home Secretary,
Government of Tamil Nadu,
Fort St.George, Secretariat,
Chennai – 9.
- 2.The Chief Secretary,
Tamil Nadu Wakf Board,
Vallal Seethakathi Nagar,
Chennai.
- 3.The District Collector,
Thanjavur District, Thanjavur.

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4.The Superintendent of Police,
Thanjavur, Thanjavur.

5.The Inspector of Police,
Pabanasam Police Station,
Pabanasam, Thanjavur.

6.Jaffer Ali,
The Jamath President,
Periya Pallivasal Jamath,
Pandaravadai,
Thanjavur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 5 to provide adequate protection to the petitioner's members to execute burial in common burial ground situated at S.F.No.88/A2, Periya Pallivasal, Pandaravadai, Thanjavur.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.A.Baskaran,
Addl. Government Pleader for R1 & R3.
Mr.K.Gnanasekaran,
Govt. Advocate (Crl. Side) for R4 & R5.
Mr.K.K.Senthil for R2
Mr.B.Jameelarasu for R6

W.P.(MD)No.17121 of 2015:-

M.Shajahan

... Petitioner

Vs.



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- 1.The Home Secretary,
Government of Tamil Nadu,
Fort St.George, Secretariat,
Chennai – 9.
- 2.The Chief Secretary,
Tamil Nadu Wakf Board,
Vallal Seethakathi Nagar,
Chennai.
- 3.The District Collector,
Thanjavur District,
Thanjavur.
- 4.The Superintendent of Police,
Thanjavur, Thanjavur.
- 5.The Inspector of Police,
Pabanasam Police Station,
Pabanasam, Thanjavur.
- 6.Yusuf Ali,
The Jamath President,
Periya Pallivasal Jamath,
Rajagiri, Thanjavur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 5 to provide adequate protection to the petitioner's members to execute burial in common burial ground situated at S.F. Nos.129/5, 129/6 & 129/7, Periya Pallivasal, Rajagiri, Thangavur.



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For Petitioner : Mr.S.M.A.Jinnah

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For Respondents : Mr.A.Baskaran,
Addl. Government Pleader for R1 & R3.
Mr.K.Gnanasekaran,
Govt. Advocate (Crl. Side) for R4 & R5.
Mr.K.K.Senthil for R2
Mr.B.Jameelarasu for R6

W.P.(MD)No.2955 of 2018:-

Sikkantharsha

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

3.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

4.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.

5.Thoufiq,
S/o. Kalith
Jamath President
Puthuvalasi Muslim Dharma Paribalana Sabai,
Ramanathapuram District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents 1 to 5 to provide adequate police protection to the petitioner's members to execute burial in Survey Nos.50/1, 50/2A, 52(2B), the common burial ground, Puthuvalasai Village, Ramanathapuram District by considering his representation dated 04.02.2018.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.A.Baskaran,
Addl. Government Pleader for R1 & R3.
Mr.K.Gnanasekaran,
Govt. Advocate (Crl. Side) for R2 & R4.
Mr.S.A.Ajmalkhan for R5

COMMON ORDER
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The writ petitioners are residents of Pandaravadai and Rajakiri villages in Thanjavur District and Puthuvalasai Village in Ramanathapuram District respectively. They belong to Thowheed Jamath. The writ petitioners demand that as when persons belonging to



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their Jamath pass away, their dead-bodies should be allowed to be buried in the kabristhan located in their villages. This is seriously objected to by the Periya Pallivasal Jamath and Puthuvalasai Muslim Dharma Paribalana Sabai which control and maintain the kabristhan. The stand of Periya Pallivasal Jamath and Puthuvalasai Muslim Dharma Paribalana Sabai is that the dead-bodies should be brought into the Pallivasal and then prayers must be offered and only thereafter, the dead-body should be taken to the kabristhan attached to the pallivasal for burial. Thowheed Jamath's members do not believe in such practices. Since Thowheed Jamath has its own pallivasal, the dead-bodies are taken to its pallivasal. Prayers are offered not by the imam but by the relatives of the deceased. The dead-bodies then are directly taken to the kabristhan without taking the dead-bodies into the Periya pallivasal. This bone of contention remained unresolved for quite some time. Peace committee meeting was convened. During the peace committee meeting, members of Thowheed Jamath agreed that they would abide by the customs of the Periya Pallivasal. But subsequently, they filed writ petition before this Court in W.P.(MD)No.16977 of 2015 and contended that they should be allowed to depart from the decision taken in the peace committee meeting. This



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Court came to the conclusion that such factual disputes cannot be resolved in writ proceedings and dismissed the writ petition vide order dated 18.11.2016.

3.The learned counsel for Periya Pallivasal and Puthuvalasai Muslim Dharma Paribalana Sabai would submit that since this issue has already been decided by this Court, it cannot once again be reopened. Though there is considerable force in this objection, we are of the view that in matters relating to burial of dead-bodies, one should not adopt a technical approach. We should also take note of an important subsequent development. Since such issue kept cropping up repeatedly before this Court, this Court directed the Waqf Board to take a call in the matter. Pursuant to the direction given by this Court, in order to ensure peace among the rival groups, the Waqf Board passed the following resolution:-

□**தீர்மானம்:**

சுன்னத் ஜமாத் கொள்கைகளைக் கொண்ட வக்பு
நிறுவனங்களால் பராமரிக்கப்படும் பொது
அடக்கஸ்தலத்தில் இஸ்லாமியர்களின் உடல்களை அடக்கம்
செய்யும் சமயங்களில் சுன்னத் ஜமாத் கொள்கையினை
பின்பற்றும் இஸ்லாமியர்களால் பேணப்படும் தொழுகை



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மற்றுமுள்ள நடைமுறைகளைக் கடைப்பிடிப்பதில் அவ்வப்போது சில நேரங்களில் பிரச்சனைகள் எழுகின்றன. தெளஉறீத் கொள்கையினைப் பின்பற்றுபவர்கள் மறுப்பு தெரிவித்து சச்சரவுகள் ஏற்படுவதால் அவைகள் தமிழ்நாடு வக்பு வாரியத்தின் கவனத்திற்குக் கொண்டு வரப்படுகின்றன. இவை ஊர்விலக்கம் மற்றும் சட்ட ஒழுங்கு பிரச்சனை ஏற்பட வழிவகை செய்கிறது.

மாண்புமிகு சென்னை உயர்நீதிமன்ற மதுரை கிளை W.P.(MD)Nos.17424/22 & 1809 and 18899 of 2023 & W.M.P.(MD)Nos.15697 and 1602 of 2023 வழக்கில் 29.09.2023 அன்று

“The Tamil Nadu Waqf Board shall make an interim arrangement pending the legislation from the Government and shall ensure that no grieved family is driven to knock at the doors of the Courts any further in future” என உத்திரவிடப்பட்டுள்ளது.

இறந்தவர்களின் உடல்களை அடக்கம் செய்வதில் கொள்கை மற்றும் சடங்குகளைப் பின்பற்றுவதில் எவ்வித ஏற்ற தாழ்வும் இருக்க கூடாது என்பதை வாரியம் கவனிக்கிறது. மேலும், இறந்தவர்களை அடக்கம் செய்வதில் கொள்கைகளை சுட்டிக்காட்டி அவ்வப்போது சச்சரவுகள் ஏற்படுவது ஜமாத்தார்களிடையே ஒற்றுமையின்மையினை உருவாக்குவதாக வாரியம் தனது கவலையைத் தெரிவிக்கிறது.

சுன்னத் ஜமாத் கொள்கையினை பின்பற்றாதவர்கள் இறந்தவர்களின் உடல்களை அடக்கம் செய்யும் முன்பு அதற்கான கிரியைகளை தனியாக வேறு இடத்தில் மேற்கொண்டு பின்னர் சுன்னத் ஜமாத் கொள்கையினை பின்பற்றும்



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பள்ளிவாசல் அடக்கஸ்தலத்தில் எவ்வித இடையூறுமின்றி அடக்கம் செய்யலாம். அவ்வாறான சமயங்களில் சம்பந்தப்பட்ட வக்பு நிறுவனம் மீண்டும் ஜனாஸா தொகையினை நடத்திடவோ வேறு எந்த கிரியையும் செய்தே ஆக வேண்டும் என வற்புறுத்துவதோ கூடாது எனவும், இதற்கான சிறப்பு சட்டத்தினை தமிழ்நாடு அரசு ஏற்படுத்தும் வரை இந்த நடைமுறை கடைபிடிக்கப்பட வேண்டும் எனவும் வாரியம் தீர்மானிக்கிறது.□

4.Waqf Board has the overall control and supervision over waqf properties in the State of Tamil Nadu. Since the statutory board has taken a call in the matter, Periya Pallivasal and Puthuvalasai Muslim Dharma Paribalana Sabai under Section 32 of the Waqf Act are obliged to adhere to the said direction. We therefore allow these writ petitions as prayed for.

5.At the same time, we cannot lose sight of one important fact. In the cemeteries attached to Roman Catholic Churches, the dead-bodies of Protestants are not allowed to be buried and vice versa. If a cemetery is maintained by a particular denomination, that cemetery cannot be used by persons belonging to other denominations. Therefore, the Waqf Board has to evolve a permanent solution to maintain peace and harmony. It cannot leave the issue to the State. We, therefore, direct the Waqf Board



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to call the various factions and arrive at a lasting solution.

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6.These writ petitions are allowed accordingly. No costs.

Consequently, connected miscellaneous petitions are closed.

(G.R.S. J.) & (R.K.M. J.)
20.02.2026

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

- 1.The Home Secretary,
Government of Tamil Nadu,
Fort St.George, Secretariat,
Chennai – 9.
- 2.The District Collector,
Thanjavur District,
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- 3.The Superintendent of Police,
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- 5.The District Collector,
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