

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.Nos.4984, 4987, 4990 & 4991 of 2020
&
W.M.P.Nos.5894, 5895, 5885, 5888 & 5893 of 2020

1.C.Dinesh
2.J.Mohammed Mubarak
3.N.Sivaganesh
4.M.Thillai Nayaki .. Petitioners in
WP.No.4984 of 2020

1.P.Selva Kumar
2.Anil Kumar Yasalapu
3.Srinivasu Gottumukkala
4.T.Niranjan Reddy .. Petitioners in
WP.No.4987 of 2020

1.G.V.Rajkiran
2.D.Queen Sathya
3.P.Muneeswari
4.J.Santhosh Kumar .. Petitioners in
WP.No.4990 of 2020

Jisha Meethile Veetil .. Petitioner in
WP.No.4991 of 2020

Vs

1.The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

2.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003.

3.The Deputy Commissioner (Health),
Greater Chennai Corporation,
Ripon Buildings,
Chennai - 600 003.

4.The Additional City Health Officer,
Regional Deputy Commissioner Office (South),
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

5.The Zonal Health Officer,
Zone - XV (Sozhinganallur),
No.120, Rajiv Gandhi Salai,
(Old Mahabalipuram Road),
Sholinganallur, Chennai - 600 119.

6.Chennai Metropolitan Development Authority,
Represented By the Member Secretary,
Thalamuthu Natarajar Maaligai,
No.1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

(R6 - Suo Motu impleaded as per order dated 27.02.2020 made in
WP.Nos.4984, 4987, 4990 & 4991 of 2020)

..Respondents in all WPs

W.P.Nos.4984,4987,4990/2020:-

COMMON PRAYER: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus
forbearing the respondents from permitting the burning or burial
of corpses in the said 'PVS Nagar Cremation Ground' situated on
Burial Ground Street, PVS Nagar, 2nd Main Road, Thoraipakkam,
Chennai - 600 097 in Ward - 193, Unit-45, Zone-15 of the Greater
Chennai Corporation Area for burning or burial of corpses in any
manner and consequently direct the respondents to enforce the
burning of such corpses from the locality, in two nearby modern
GAS FIRED INCENERTOR enabled cremation facilities situated on
Arichandra Road, Injambakkam, Chennai, Zone 15 or on the School
Road, Perungudi, Chennai Zone 14 of Greater Chennai Corporation
Area.

WP No.4991/2020 : Filed under Article 226 of the Constitution
of India pleased to issue a Writ of Certiorarified Mandamus or
any other Writ order or direction in the nature of the Writ
calling or the records relating to the order of the 1st
Respondent Ma.A.15.Na.Ka.No.A5/4223/2019 dated 30.10.2019 made
on the petitioner's complaint 2019/1040109/KN and to quash the
same and consequently forbearing the respondents from permitting
the burning of corpses in the said Cremation Ground situated on
Burial Ground Street, PVS Nagar 2nd Main Road, Thoraipakkam,
Chennai-600 097 in Ward-193 , unit-45, Zone -15 of the Greater
Chennai Corporation Area for burning of corpses in any manner
and consequently direct the respondents to enforce the burning

of such corpses from the locality, in the two nearby modern GAS FIRED INCINERATOR enabled cremation facilities situated on Arichandra Road, Injambakkam, Chennai, Zone 15 or on the School Road, Perungudi, Chennai Zone 14 of Greater Chennai Corporation Area.

For Petitioners .. Mr.S.Abu Backer Sidhic
(in all petitions)

For Respondents .. Mr.K.Raja Srinivas,
(in all petitions) Standing Counsel for R1 to R3
Mr.Prasanth Ashok for R4, R5

COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioners herein have come forward to file these writ petitions having two grievances. One is, the place which has been earmarked to be used as burial ground is actually used for cremation and the other is, the burial ground itself is liable to be shifted since the Corporation of Chennai has already identified suitable places within 1 km.

2. The learned standing counsel appearing for the respondents 1 to 3 submitted that cremation is not permitted and a board has been put up accordingly.

3. Insofar as the burial ground is concerned, inasmuch the same is being used for decades, the requests made by the petitioners cannot be considered.

4. On the first issue, we find considerable force in the submission made by the learned counsel appearing for the petitioner. The records produced would show that cremation does take place. This is inclusive of the photographs filed in the typed set of papers. The 1st respondent has also acknowledged the factum of cremation took place in the burial ground as could be seen at page No.3 of the typed set of papers.

5. In such view of the matter, particularly, the fact that the cremation is prohibited in Ward No.193, Unit 45, Zone 15. The Corporation officials are hereby directed to see to it that no cremation takes place henceforth. They are expected to have adequate persons under their employment at gate so as to prevent the above said activity which is not permissible in law. In case there is any violation, a complaint has to be given to the jurisdictional police for appropriate action.

6. On the second issue, we are not in a position to pass any positive order though learned counsel for the petitioner

submitted that within a kilo meter away from the present place, two crematorium grounds with modern facilities are situated both at Perungudi and Harichandra Road at Injambakkam. Therefore, these facilities can be utilized even for burial.

7. The submissions made by the learned counsel for the petitioner with respect to shifting of the burial ground is a matter to be considered by the 2nd respondent. The fact that the present burial ground is under use for quite number of years cannot be a sole factor by itself in not considering the request made by the petitioner based upon the existence of the two other burial grounds with better facilities in the nearby area. Obviously, it is for the 2nd respondent to take appropriate decision in this regard. Therefore, we do not wish to say anything on it except by permitting the petitioners to make a fresh representation to the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the 2nd respondent shall pass appropriate orders within a further period of six weeks thereafter by taking into consideration of relevant materials.

8. The writ petitions stand disposed of accordingly. No costs. Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

raa/kmk

To

- 1.The Regional Deputy Commissioner (South),
Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.
- 2.The Commissioner, Greater Chennai Corporation,
Rippon Buildings, Chennai - 600 003.
- 3.The Deputy Commissioner (Health),
Greater Chennai Corporation,
Ripon Buildings, Chennai - 600 003.

4.The Additional City Health Officer,
Regional Deputy Commissioner Office (South),
No.115, Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

5.The Zonal Health Officer, Zone - XV (Sozhinganallur),
No.120, Rajiv Gandhi Salai, (Old Mahabalipuram Road),
Sholinganallur, Chennai - 600 119.

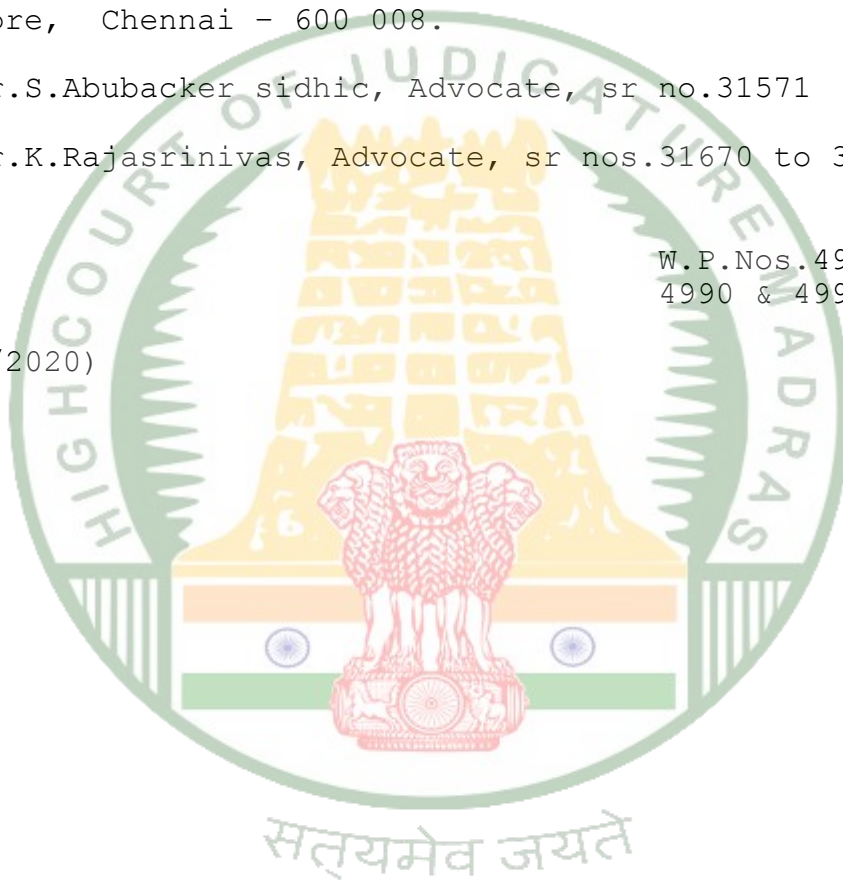
6.The Member Secretary, Chennai Metropolitan Development
Authority, Thalamuthu Natarajar Maaligai, No.1, Gandhi Irwin
Roan, Egmore, Chennai - 600 008.

+1cc to Mr.S.Abubacker sidhic, Advocate, sr no.31571

+4cc to Mr.K.Rajasrinivas, Advocate, sr nos.31670 to 31673

W.P.Nos.4984, 4987,
4990 & 4991 of 2020

LN(CO)
RMP(20/10/2020)



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