



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2021

CORAM :

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

**W.P. (MD) No.5443 of 2021
and W.M.P. (MD) No.4336 of 2021**

Ajitha

.. Petitioner

Vs

- 1.The District Collector,
Kanyakumari District @ Nagercoil.
- 2.The Deputy Director of Health Services,
Kanyakumari District @ Nagercoil.
- 3.The Executive Officer,
Arumanai Town Panchayat,
Arumanai,
Kanyakumari District.
- 4.The Parish Priest,
St.Thomas Church,
Valiya Vilai,
Arumanai Post,
Kanyakumari District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, to forbear the respondents 1 to 3 herein from granting any Licence or permission to the 4th respondent for the establishment of the Burial ground in Survey No.268/1A2 and 268/3 to an extent of 70 cents out of Hectare 1 Are 88 in Vellamcode Village, Vilavancode Taluk, Kanyakumari District by violating Sections 278 and 279 of Tamil Nadu District Municipalities Act, 1920 based on the petitioner's representation made before them by RPAD dated 21.01.2020 within a time frame.

For Petitioner : Mr.B.Brijesh Kishore

For Respondent Nos.1 & 2 : Mr.K.P.Krishnadass
Additional Government Pleader

For Respondent No.3 : Ms.V.P.M.Vaishnavi,
Government Advocate

For Respondent No.4 : Mr.C.K.M.Appaji

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

This Writ Petition has been filed for the issuance of a writ of Mandamus, to forbear the respondents 1 to 3 herein from granting any Licence or permission to the 4th respondent for the establishment of the Burial ground in Survey No.268/1A2 and 268/3 to an extent of 70 cents out of Hectare 1 Are 88 in Vellamcode Village, Vilavancode Taluk, Kanyakumari District by violating Sections 278 and 279 of Tamil Nadu District Municipalities Act, 1920 based on the petitioner's representation made before them by RPAD dated 21.01.2020 within a time frame.

2.Heard Mr.B.Brijesh Kishore, learned counsel appearing for the petitioner, Mr.K.P.Krishnadass, learned Special Government Pleader appearing for respondent Nos.1 & 2, Ms.V.P.M.Vaishnavi, learned Government Advocate appearing for the third respondent and Mr.C.K.M.Appaji, learned counsel for the fourth respondent.

3.Learned Government Advocate appearing for the third respondent has produced written instruction from the third respondent that till 12.03.2021, no application has been received from the fourth respondent for establishing the burial ground.

4.Learned Special Government Pleader appearing for Respondent Nos.1 and 2 has produced copy of the letter given by the Parish Priest of the fourth respondent Church that they decided not to establish burial ground in the Church Premises.

5.No person has got any vested right to utilise his or her land for the purpose of burial or cremation of the dead body, unless and until the land is classified as such by the appropriate authority, the land cannot be put to use for the disposal of the dead body either by burial or by cremation. Therefore, the very thought process to have a private burial ground in the Church Premises without even making an application is not sustainable. A perusal of the affidavit presented by the Parish Priest of the fourth respondent would show that a wise decision has been taken to drop that thought process.

6.In the light of the above, the Writ Petition is allowed, forbearing the fourth respondent from establishing any burial ground in the Church premises. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



sj

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The District Collector,
Kanyakumari District @ Nagercoil.
- 2.The Deputy Director of Health Services,
Kanyakumari District @ Nagercoil.

+1 CC to M/s.SPL GP (SR-17542[F] dated 26/04/2021)

+1 CC to M/s.B.BRIJESH KISHORE, Advocate (SR-17677[F] dated 27/04/2021)

W.P. (MD) No.5443 of 2021
23.04.2021

RK(13.05.2021) 3P 5C