



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.(MD) No.13083 of 2021

and

W.M.P.(MD) No.10124 of 2021

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M.Krishnan Asari ... Petitioner

Vs

1.The District Collector,
Kanyakumari District @ Nagercoil.

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

3. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
318/A, Water Tank Road,
Nagercoil,
Kanyakumari District.

4. The Deputy Superintendent of Police,
Thuckalay Subdivision,
Kanyakumari District.

5. The Executive Officer,
Thiruvattur Town Panchayat,
Kanyakumari District.

6. The Salvation Army Church,
Thengu Villai,
Ittakaveli, Kanyakumari District,
Rep. by its Present Pastor,
Mr.K.Srinivasan.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, forbearing the respondents to 5 herein from granting any license of permission to the sixth respondent for the establishment of burial ground in survey No.542/5B to an extent of 7.50 ares (18.50 Cents) in Kulasekharam B Village, Thiruvattar 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 23.07.2020.

For Petitioner : Mr.B.Brijesh Kishore
For Respondents 1 to 4 : Mr.A.K.Manikkam
Standing Counsel for Government
For 5th Respondent : Mr.R.Suresh Kumar
Government Advocate

ORDER

[Order of the Court was made by S.ANANTHI, J.]

The petitioner has filed this writ petition to forbear the official respondents from granting any Licence or permission to the sixth respondent for establishing a burial ground at Survey No.542/5B, Kulasekharam B Village, Thiruvattar Taluk, Kanyakumari District.

2.Mr.A.K.Manikkam, learned Standing Counsel for Government takes notice on behalf of the respondent Nos.1 to 4 and Mr.R.Suresh Kumar, learned Government Advocate takes notice on behalf of the fifth respondent.

3.Mr.R.Suresh Kumar, learned Government Advocate appearing for the fifth respondent submitted that they have not received any application from the sixth respondent for establishing the burial ground.

4.Mr.A.K.Manikkam appearing for the State has referred to about an order passed by this Court in W.P.(MD)No.5443 of 2021 [Ajitha v. District Collector, Kanyakumari and Others], for the very same relief, wherein, this Court has held as follows :

"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."

5. In view of the aforesaid position, W.P.(MD)No.13083 of 2021 is allowed, forbearing the sixth respondent from establishing any burial ground in the residential area. Consequently, W.M.P.(MD)



No.10124 of 2021 is closed.
There will no order as to costs.

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// True Copy //

Sd/-

Assistant Registrar (T&P)

/ /2021

Sub Assistant Registrar(CS)

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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.
3. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
318/A, Water Tank Road,
Nagercoil,
Kanyakumari District.
4. The Deputy Superintendent of Police,
Thuckalay Subdivision,
Kanyakumari District.
5. The Executive Officer,
Thiruvattur Town Panchayat,
Kanyakumari District.

+1 CC to M/s.B.BRIJESH KISHORE, Advocate (SR-24476[F] dated 29/07/2021)

+1 CC to M/s.GP (SR-24939[F] dated 02/08/2021)

W.P. (MD) No. 13083 of 2021

29.07.2021

MGJ(05.08.2021) 3P 8C

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