



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.9471 of 2022

Rajappa

...Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari,
Kanyakumari District.

2.The Dean,
Government Medical College Hospital,
Asaripallam, Nagercoil,
Kanyakumari District.

3.The Inspector of Police,
Suchindram Police Station,
Nagercoil,
Kanyakumari District.

4.Umamaheswari

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd and 3rd respondents to hand over the petitioner's mother's body to the petitioner for the purpose of conducting death ceremony as per our customs and tradition based on the petitioner's representation dated 02.05.2022.

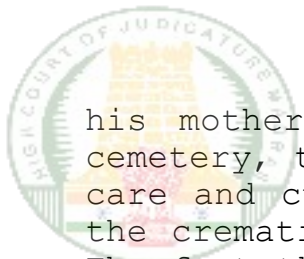
For Petitioner: Mr.R.Maheswaran
for M.Anantha Devi

For R1 to R3 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

For R4 : Mr.S.Palanivelayutham

O R D E R

While the petitioner herein is the son of one Panjali, W/o. Gurusamy Nadar, the fourth respondent is her daughter. The said Panjali expired on 30.04.2022, while she was in the care and custody of the fourth respondent. Her mortal remains is now kept in the mortuary of the second respondent hospital. Owing to dispute between the petitioner and the fourth respondent, the body of the deceased is yet to be cremated. While, the petitioner claims that



his mother should be cremated in his village, near his father's cemetery, the fourth respondent claims that her mother was under the care and custody of her for the past seven(7) years and therefore, the cremation should take place in their village at Pillaiyarpuram. The fact that the deceased mother was under the care and custody of the fourth respondent for the past seven(7) years, is not disputed by the petitioner.

2.The counsel for the petitioner would submit that since the family members of the fourth respondent herein are not permitting to attend the funeral, he intends to have the cremation in his village.

3.Today, when the matter was called, the learned counsel for the fourth respondent submitted that she has no objection, if the petitioner and his family members attend the funeral of her mother at Pillaiyarpuram and that she will not create any problem in this regard.

4.This Court is of the view that since the mother was residing with the fourth respondent for the past seven(7) years, it would be appropriate to permit the fourth respondent to conduct the funeral at her village at Pillayarpuram and that she must also permit the petitioner and his family members to attend the funeral.

5.In the light of the above observations and findings, the fourth respondent is at liberty to retrieve the mortal remains of Panjali from Government Medical College Hospital, Nagercoil and perform the last rites as well as the cremation at Pillaiyarpuram, Madhusoothanapuram North Village, Manikattipottal post, Kanyakumari District. The third respondent herein is directed to provide adequate protection to the fourth respondent when the fourth respondent retrieves the mortal remains of her mother from the hospital, till the cremation is over. The fourth respondent herein shall not cause any hindrance or other problems when the petitioner and his family members attending the funeral of his mother. The petitioner is also at liberty to perform his rites as a son during the funeral.

6.With the above directions, this Writ Petition stands closed.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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 Superintendent of Police,
Kanyakumari,
Kanyakumari District.

2.The Dean,
Government Medical College Hospital,
Asaripallam, Nagercoil,
Kanyakumari District.

3.The Inspector of Police,
Suchindram Police Station,
Nagercoil,
Kanyakumari District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.PALANIVELAYATHUM, Advocate (SR-23497[F] dated 06/05/2022)

+1 CC to M/s.C. SUSI KUMAR, Advocate (SR-23559[F] dated 06/05/2022)

W.P. (MD) No.9471 of 2022
06.05.2022

SVS (CO)
TR(06.05.2022) 3P 7C