



W.P(MD)No.2576 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2576 of 2023

M.Ramesh

... Petitioner

Vs.

- 1.The District Collector,
Pudukkottai District,
Pudukkottai.
- 2.The Superintendent of Police,
Pudukkottai District,
Pudukkottai.
- 3.The Deputy Superintendent of Police,
Ponnamaravathi,
Pudukkottai District.
- 4.The Revenue Divisional Officer,
Illupur Division,
Pudukkottai District.
- 5.The Inspector of Police,
Annavasal Police Station,
Pudukkottai District.
- 6.The Sub Inspector of Police,
Karaiyur Police Station,
Ponnamaravathi Taluk,
Pudukkottai District.



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7.The Panchayat President,
Arasamalai Village Panchayat,
Ponnamaravathi Taluk,
Pudukkottai District.

8.Nagalakshmi

9.Vallikannu

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1, 4 & 7 to take appropriate steps to exhume the dead body of Mr.Chinniah, the husband of the 8th respondent illegally buried in the patta lands of the petitioner in Survey No.99/2A of an extent of 43 cents in Arasamalai Village, Ponnamaravathi Taluk, Pudukkottai District and further take appropriate legal action against the respondents 8 & 9 for their illegal act.

For Petitioner : Mr.M.Karthikeyavenkitachalapathy

For Respondents : Mr.M.M.Lingadurai
Special Government Pleader for R1 & R4
: Mr.B.Thanga Aravindh
Government Advocate (Cr1.side)
for R2, R3, R5 & R6
: Mr.N.Marimuthu for R8
: No appearance for R7

ORDER

Heard the learned counsel on either side.

2. There is a civil dispute between the petitioner on the one hand and the private respondents on the other in respect of the petition mentioned land.



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3. The injunction suit filed by the petitioner suffered dismissal in December 2022, while the injunction suit filed by the 8th respondent was decreed. The petitioner's counsel states that the certified copy of the Judgment and decree is awaited and that he proposes to challenge the same before the first appellate Court. It is further stated that during the pendency of the suit, the petitioner enjoyed interim injunction.

4. I do not want to go into the issue of possession and it is left open. The only question that calls for consideration is whether the 8th respondent was justified in burying the dead body of her husband in the petition mentioned land. The property is situated within the panchayat limits. As per the statutory scheme governing the Tamil Nadu Village Panchayats (Provision of Burial and Burning) Rules, 1989, a body can be buried or cremated only in a licensed place. The petition mentioned land is not a licensed burial ground. Therefore, the conduct of the 8th respondent is clearly illegal. The petitioner now wants the dead body to be exhumed. The petitioner gives a further undertaking that he himself will make all arrangements for exhumation and disposal of the body. The respondents 5 & 6 are directed to provide necessary protection to enable the petitioner to do so. If the 8th respondent in the meanwhile comes forward to make alternative arrangements, that shall be permitted.



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5. The petitioner is even ready to bear the cost for removal of the body from the petition mentioned land. The only relief that is given to the petitioner in this case is for directing the removal of the body of Chinniah that has been buried in the petition mentioned lands. I consciously refrain from rendering any finding as regards who is in possession.

6. The Writ Petition is allowed on these terms. No costs.

03.03.2023

Index : Yes / No
Internet : Yes/ No
rmi

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Pudukkottai.
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Pudukkottai District,
Pudukkottai.
- 3.The Deputy Superintendent of Police,
Ponnamaravathi,
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- 4.The Revenue Divisional Officer,
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- 5.The Inspector of Police,



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Annavasal Police Station,
Pudukkottai District.

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6.The Sub Inspector of Police,
Karaiyur Police Station,
Ponnamaravathi Taluk,
Pudukkottai District.

G.R.SWAMINATHAN, J.



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