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CONT.P.(MD)NO.1435 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CONT.P.(MD)No.1435 of 2023 in
W.P.(MD)No.2576 of 2023

M.Ramesh

... Petitioner

Vs.

1. Mr.Radhakrishnan,
Inspector of Police,
Annavasal police station,
Pudukkottai District.

2. Mr.Mathiazhagan,
Sub Inspector of Police,
Karaiyur police station,
Ponnamaravathi Taluk,
Pudukkottai District.

3. Nagalakshmi

... Contemnors /
Respondents 5, 6 & 8

Prayer: Contempt petition filed under Section 11 of the Contempt of Courts Act 1971, to punish the contemnors / respondents 5, 6 and 8 for their willful and deliberate disobedience of the order of this Court made in W.P.(MD) No.2576 of 2023 dated 03.03.2023.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy

For R-1 & R-2 : Mr.A.Albert James,
Government Advocate.

For R-3 : Mr.D.Parisuthanathan

* * *

**ORDER**

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Heard the learned counsel on either side.

2. The petitioner and the third respondent herein are having civil dispute. The third respondent's husband Chinnaiah passed away. The third respondent had buried his dead body in a non-notified place. The petitioner would allege that it was buried in the disputed site itself. The petitioner filed W.P.(MD)No.2576 of 2023 for exhuming the buried body. The writ petition was allowed by me on 03.03.2023 in the following terms:-

“ 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



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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.

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.”



3. Contending that the order passed by this Court was not complied with, the present contempt petition came to be filed. Statutory notice was ordered and the respondents are present before this Court.

4. The learned counsel appearing for the third respondent submits that the third respondent belongs to Scheduled Caste community whereas the deceased Chinnaiah belonged to Ambalakarar community(MBC). In Arasamalai Village, there are burial grounds. But they have been earmarked for particular communities. There is no common burial ground. It is alleged that the body of Chinnaiah could not be buried either in the burial ground meant for SCs or in the burial ground meant for MBCs and that is why, the third respondent was left with no other option but to burry him in the petition-mentioned survey number itself.

5. It is quite unfortunate that even after the death, caste continues to haunt. My attention is drawn to the decision of the Hon'ble Full Bench of Madras High Court reported in **2023 (4) CTC 481 (Jagadheeswari V. B.Babu Baidu)**. The



Hon'ble Full Bench had held that the body must be buried only in a notified burial ground and if in any non-notified burial ground, it has been buried, the body must be exhumed and buried in a designated place.

6. I therefore do not find any ground to revisit the earlier order passed by me.

7. At the same time, the difficulties expressed by the third respondent will have to be understood. I therefore direct the District Collector, Pudukkottai District to identify the place where the exhumed body can be buried. This identification exercise shall be done within a period of two weeks from the date of receipt of a copy of this order. Since law and order problems will have to be taken into account, it is for the District Collector to take a decision in this regard. The body shall be exhumed and buried at the site identified by the District Collector. It is the duty of the respondents 1 and 2 to render police protection for carrying out the aforesaid exercise. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this



order. This contempt petition stands disposed of with the aforesaid direction.

04.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

PMU

Note : Registry to mark a copy of the order
to the District Collector, Pudukkottai District.

To:

1. The Inspector of Police,
Annavaasal police station,
Pudukkottai District.
2. The Sub Inspector of Police,
Karaiyur police station,
Ponnamaravathi Taluk,
Pudukkottai District.



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G.R.SWAMINATHAN,J.

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