



W.P(MD)No.27992 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27992 of 2023

and

W.M.P(MD)No.24103 of 2023

Jalalbeevi

... Petitioner

Vs.

- 1.The Tamil Nadu Wakf Board,
Represented by its Chief Executive Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Seethakathi Nagar, George Town,
Chennai.
- 2.The District Collector,
O/o. The District Collector,
Kanniyakumari District.
- 3.The Superintendent of Police,
O/o. The Superintendent of Police,
Kanniyakumari District.
- 4.The Superintendent of Wakf,
O/o. The Superintendent of Wakf,
Tirunelveli District.



W.P(MD)No.27992 of 2023

5.The Inspector of Police,
O/o. The Inspector of Police,
Aralvaimozhi Police Station,
Kanniyakumari District.

6.Meeran Bilal,
President,
Sheguna Shahul Hameed Aandakai Muslim
Jamath Pallivasal,
Madhavalayam,
Kanniyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to permit the petitioner and his family members to execute burial of petitioner's deceased husband, namely, Late. S.Abdul Rahuman, S/o. Syed Mohammed aged 68 years following their fait from Quran and Hadees in the common burial ground belongs to the fourth respondent at Sheguna Shahul Hameed Aandakai Muslim Jamath Pallivasal, Madhavalayam, Kanniyakumari District.

For Petitioner : Mr.SMA.Jinnah

For Respondents : Mr.D.S.Haroon Rasheed for R.1 & R.4

Mr.M.Prakash
Additional Government Pleader for R.2

Mr.A.Albert James
Government Advocate for R.3 & R.5

Mr.A.S.Abdul Kalam Azad for R.6



W.P(MD)No.27992 of 2023

ORDER

Heard both sides.

2. The writ petitioner's husband passed away yesterday morning. The petitioner is a resident of Madhavalayam Village. The petitioner's family is a member of a Tamil Nadu Thowheed Jamaat. The Kabaristhan is maintained by the sixth respondent pallivasal which is a member of Sunnat-ul-Jamaat. There is disagreement between the members of Thowheed Jamaat and Sunnat-ul-Jamaat as regards the rites and customs to be followed at the time of burial. In the case of Hindus, burial ground / cremation ground would invariably vest with the local bodies such as Panchayats / Municipalities / Corporations. But in the case of Christians and Muslims, the burial ground belongs to religious institutions. The revenue record in respect of the petition mentioned Kabaristhan reflects the name of the sixth respondent pallivasal.

3. The stand of the sixth respondent is that when burial takes place in their Kabaristhan, the customs traditionally followed must be observed.



W.P(MD)No.27992 of 2023

4. According to the petitioner, the customs followed by Sunnat-ul-Jamaat does not represent the original faith. Whether the petitioner can still insist on burying her husband's body de hors the norms laid down by the sixth respondent is the moot point for consideration. The writ petition is being taken up by way of lunch motion. There is no time for this Court to adjudicate such a question of law and fact. There is consensus on either side that the issue raised in the writ petition can be left for resolution by the Chief Executive Officer of Tamil Nadu Wakf Board.

5. I called upon the Chief Executive Officer of Tamil Nadu Wakf Board to take a call in the matter before this evening itself. The learned Standing Counsel appearing for the Wakf Board is directed to communicate this decision without waiting for the copy of the order. The Chief Executive Officer will have a virtual conference over Zoom or Whatsapp with the writ petitioner, the sixth respondent and other stakeholders and render his decision in writing. It shall also be communicated through email or any other mode. The sixth respondent will abide by the decision of the Chief Executive Officer of the Wakf Board. Since the



W.P(MD)No.27992 of 2023

Chief Executive Officer cannot be equated with the Wakf Board, any decision to be rendered by him will not be a precedent.

6. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

24.11.2023

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

NOTE : Issue Order Copy on 24.11.2023.

To

Chief Executive Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Seethakathi Nagar, George Town,
Chennai.

2.The District Collector,
O/o. The District Collector,
Kanniyakumari District.

3.The Superintendent of Police,
O/o. The Superintendent of Police,
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5/6



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W.P(MD)No.27992 of 2023

G.R.SWAMINATHAN, J.

MGA

4.The Superintendent of Wakf,
O/o. The Superintendent of Wakf,
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5.The Inspector of Police,
O/o. The Inspector of Police,
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