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W.P.No.2282 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.2282 of 2024
and W.M.P.No.2479 of 2024

N.Jayamoorthi

...

Petitioner

/vs/

1. The District Collector,
Office of the Collectorate,
Villupuram – 605 602.
2. The Superintendent of Police,
Office of the Superintendent of Police,
Collector Office Road, Moovendar Nagar,
Villupuram District - 605 602.
3. The Revenue Divisional Officer,
Villupuram.
4. The Tahsildar,
Office of the Tahsildar,
Kandachipuram Taluk,
Villupuram District – 605 701.
5. Block Development Officer,
Mugaiyur Panchayat Union,
Office of B.D.O.,
Manampundi, Kandachipuram Taluk,
Villupuram District – 605 759.
6. The Inspector of Police,



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Kandachipuram Police Station,
Kandachipuram,
Villupuram District – 605 701.

7. The Village Administrative Officer (V.A.O.)
Othiyathur Village,
Kandachipuram,
Villupuram District – 605 701.

8. The Panchayat President,
Othiyathur Panchayat Office,
Othiyathur Post,
Kandachipuram,
Villupuram District – 605 701.

9. Sakthivel

10. M.Veeran

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 8 to take action against respondent 9 and 10 for burying the dead body of 9th respondent's mother deceased Rani Ammal W/o. Murugaiyan on 23.12.2023 in the patta land of the petitioner comprised in Survey No.109/4G of Thirumalrayapuram, Othiyathur Village Panchayat Kandachipuram Taluk, Villupuram district and direct the respondents to exhume the body of said deceased Rani Ammal W/o. Murugaiyan which has been buried in the patta land of the petitioner in S.F. No. 109/4G, Thirumalrayapuram, Othiyathur Village Panchayat, Kandachipuram Taluk, Villupuram district and relocate the remains of the dead body in the designated existing burial ground at Old S.F. No.125/5 now S.F. No. 125/7 Thirumalrayapuram, Othiyathur



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Village Panchayat, Kandachipuram Taluk, Villupuram district and pass consequential order directing the respondents 1 to 8 to take proper action preventing any further burial of any dead body in any other place including the patta land of the petitioner in S.F. No.109/4G, Thirumalrayapuram, Othiyathur Village Panchayat, Kandachipuram Taluk, Villupuram district excepting in the designated existing burial ground at Old S.F. No. 125/5 now present Survey No. 125/7 Thirumalrayapuram, Othiyathur Village Panchayat, Kandachipuram Taluk, Villupuram district and to ensure protection of the rights to the property of the petitioner.

For Petitioner ... Mr.Udayakumar

For Respondents ... Mr.S.J.Mohammed Sathik,
Govt. Advocate for RR1,3,4 & 7

Mr.V.Jeevagiridharan,
Additional Govt. Pleader for RR5 & 8

Mr.J.Subbiah
Government Advocate for RR2 & 6

ORDER

This writ petition has been filed seeking direction to the respondents 1 to 8 to take action against respondent 9 and 10 for burying the dead body of 9th respondent's mother deceased Rani Ammal W/o. Murugaiyan on 23.12.2023 in the patta land of the petitioner comprised in Survey No.109/4G of Thirumalrayapuram, Othiyathur Village Panchayat



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Kandachipuram Taluk, Villupuram District and direct the respondents to exhume the body of said deceased Rani Ammal W/o. Murugaiyan which has been buried in the patta land of the petitioner in S.F. No. 109/4G, Thirumalrayapuram, Othiyathur Village Panchayat, Kandachipuram Taluk, Villupuram District and relocate the remains of the dead body in the designated existing burial ground and for consequential reliefs.

2. The petitioner is said to be the owner of the lands comprised in Survey No.109/4G of Thirumalrayapuram, Othiyathur Village Panchayat Kandachipuram Taluk, Villupuram District.

3. Mr.M.Udhayakumar, the learned counsel for the petitioner, submitted that the 9th respondent has buried the body of his mother in the patta land belonging to the petitioner in the above survey number even though there are designated burial grounds available at Old S.F. No.125/5 now S.F. No. 125/7 Thirumalrayapuram, Othiyathur Village Panchayat, Kandachipuram Taluk, Villupuram District.

4. Mr.S.J.Mohammed Sathik, the learned Government Advocate for



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the respondents 1, 3, 4 & 7 submitted that the dead body has been buried in the land in Survey No.109/4G which belongs to the petitioner.

5. However Mr.V.Jeevagiridharan, the learned counsel for the fifth respondent submitted that such incidents occur in the villages because the high-caste Hindus object the funeral procession of Scheduled Caste member through their streets and hence the 9th respondent had buried the dead body in the lands of the petitioner.

6. As per Rule 4 of the Tamil Nadu Village Panchayat (Provision of Burial and Burning Grounds) Rules, 1999, no place can be considered as a place for burying or burning the dead bodies without obtaining license from the Village Panchayat. Even while granting the said license, there are certain conditions which have to be complied and all those conditions are enlisted under Rule 5 of the above Rules. If a private person allows burial of a body in his land, then he would also seek proper license from the Panchayat as a prerequisite by following the due procedure.

7. Admittedly the petitioner's property is not a designated place for burial. If the 9th respondent had any problem in carrying the body of his



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mother through the street where the high-caste Hindus resides, he could have approached the appropriate authorities to initiate action and allow him to reach the burial ground. The private lands cannot be utilized as burial grounds without the consent of the land owner and without the land owner having a license for burial as per the Rules.

8. In this regard a Full Bench of this Court has already passed a judgment in W.A.No.1037 of 2023 dated 20.07.2023 wherein it is held as follows:

“.. 34. Moreover, after Rules, 1999 came into force, ,any burial in the place other than the place already registered or licensed as burial ground, goes in contravention to Rule 7(1). Any body buried in contravention to the Rules 5 and 7, is to be exhumed and buried in the designated place. If such violation is brought to the notice within the reasonable time and despite notice to exhume the body for to be buried in the designated place nor adhered by the person concerned, the body is to be exhumed by the authority and collect the costs from the person who is cause for that illegal burial. The exhumed body must be buried in the designated place, taking into consideration the public health. Person who defies the law and refused the exhume the body, cannot take umbrage in the delay of enforcing the law and make the Court 'fait accompli'. Accordingly, the order of reference is answered in negative.”



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9. Since the respondents 1, 3, 4 & 7 themselves admit that the dead body has been buried in the land belonging to a private property and without abiding the rules, it is obligatory on the part of the respondents to exhume the body remains and bury it at any designated licensed burial ground. In this regard the petitioner has also given a representation dated 28.12.2023 and so far it has not been considered.

10. Considering the facts and circumstances of the case, this Court directs the respondents 1, 3, 4 & 7 to consider the representation of the petitioner dated 28.12.2023 and take immediate steps to exhume the body which was buried in the patta land of the petitioner with the help of the second respondent and ensure that the remains of the dead body are buried at any licensed burial ground, within a period of three weeks from the date of receipt of a copy of this order.

11. With the above direction, this Writ Petition is disposed. No costs. Connected miscellaneous petition is closed.

05.02.2024



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Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

Note to Office: Issue order copy by 09.02.2024

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To:

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Office of the Superintendent of Police,
Collector Office Road, Moovendar Nagar,
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