



W.A.No.1749 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.1749 of 2024

S.Senthilkumar

.. Appellant

Vs

1. The Deputy Commissioner of Police
Adyar District, Adyar
Chennai – 600 020.

2. The Inspector of Police
J-1, Saidapet Police Station
Chennai – 600 015.

3. The Resident Medical Officer
Royapettah Government Hospital
Chennai – 600 014.

4. Kalviyarasi

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent to set aside the order dated 24.5.2024 passed in W.P.No.13246 of 2024 by the learned Single Judge.



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For the Appellant : Mr.S.V.Sundarraman

For the Respondents : Mr.R.Muniyapparaj
Addl Public Prosecutor
for respondents 1 to 3

: Mr.I.Kather Hussain
for 4th respondent

JUDGMENT
(Delivered by *D.KRISHNAKUMAR,J.*)

Heard Mr.S.V.Sundarraman, learned counsel for the appellant;
Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing
on behalf of respondents 1 to 3; and Mr.I.Kather Hussain, learned
counsel for the fourth respondent.

2. By consent of the parties, the writ appeal itself is taken up
for final disposal.

3. The appellant herein filed a writ petition seeking issuance of
a writ of mandamus to direct respondents 2 and 3 to hand over the
corpse of his deceased aunt, Chitrakala alias Asina Begum, who died



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on 4.5.2024, for performing the last rites.
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4. The learned Single Judge, after considering the entire conspectus of the matter, especially the facts that the fourth respondent, who is the sister of the deceased, raised doubts about the death of her sister and lodged a complaint, which was registered under Section 174 of the Indian Penal Code in Crime No.173 of 2024, and the submission made on behalf of the respondent/police that the postmortem was completed and there is no impediment for conducting the last rites for the deceased, directed the appellant and the fourth respondent to conduct the last rites of the deceased.

5. Assailing the aforesaid order, the appellant has filed this writ appeal.

6. Learned counsel for the appellant vehemently contended that the deceased Mrs.Chitrakala alias Asina Begum executed a registered Will dated 25.11.2019, which was registered as Document No.168 of 2019 on the file of the Sub Registrar Officer,



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Vaniyambadi, wherein the deceased had specifically averred that the appellant and his brothers should perform her last rites.

7. Learned counsel appearing on behalf of the fourth respondent, even though initially objected to the handing over of the corpse of the deceased Chitrakala alias Asina Begum to the appellants, subsequently, fairly agreed that the corpse of the deceased Chitrakala alias Asina Begum be handed over to the appellant for performing of the last rites. He further submitted that the fourth respondent may be permitted to remain present while performing the last rites. He hastened to add that this order should be preclude the rights of the fourth respondent to work out her rights with regard to the execution of the Will and the properties that devolve upon the appellant before the competent civil court.

8. It is beyond any demur that the deceased, Chitrakala alias Asina Begum, in the registered Will has specifically averred as under:

"..... என இழ்ழுவரும் இச்சொத்துக்களை, என்னுடைய



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மற்றும் எனது கணவர் ஜனாப் அலி சாய்புவினுடைய என, எங்கள் இருவரின் அந்திம காலத்திற்குப் பிறகு, எங்கள் இருவருக்கும், இஸ்லாம் மத குலாச்சாரப்படி செய்ய வேண்டிய இருதிக் கடன்களை செவ்வனே செய்து முடித்துவிட்டு,"

9. Now, the fourth respondent has also given her no objection for the performance of the last rites by the appellant. In view of the above, the grievance ventilated by the appellant in the writ petition is redressed.

10. Considering the submissions made by learned counsel on either side, we pass the following order:

- (i) The official respondents are directed to hand over the corpse of the deceased, Chitrakala alias Asina Begum, which is now in the mortuary of the Royapettah Government Hospital, to the appellant on 20.6.2024 [tomorrow], to enable the appellant perform the last rites;
- (ii) The fourth respondent is permitted to remain



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present at the time of performing the last rites of the deceased. The appellant or his brothers shall not prevent the fourth respondent from remaining present while performing the last rites.

(iii)The appellant and the fourth respondent shall abide by the decision of the Jamat with regard to performing of the final rites of the deceased.

(iv)If any law and order problem is caused by any of the parties, it is always open to the respondent/ police to take necessary action in accordance with law.

(v)This order shall not preclude the parties concerned from approaching the civil forum to work out their rights with regard to the properties that are bequeathed to the appellant under the registered Will executed by the deceased.

The writ appeal is disposed of with the aforesaid directions.



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There shall be no order as to costs. Consequently, C.M.P.No.12351 of 2024 is closed.

(D.K.K., J.) (K.B., J.)
19.06.2024

Note to Registry:

Issue order copy today (19.6.2024)

Index : Yes/No
NC : Yes/No
sasi

To:

1. The Deputy Commissioner of Police
Adyar District, Adyar
Chennai – 600 020.
2. The Inspector of Police
J-1, Saidapet Police Station
Chennai – 600 015.
3. The Resident Medical Officer
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AND
K.KUMARESH BABU,J.

(sasi)

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