



W.P(MD)No.1294 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1294 of 2024

and

W.M.P(MD)No.1326 of 2024

Pitchai

... Petitioner

-Vs-

- 1.The District Collector,
Collectorate Buildings,
Nagercoil,
Kanyakumari District.
- 2.The Superintendent of Police,
O/o the Superintendent of Police,
Nagercoil,
Kanyakumari District.
- 3.The Deputy Superintendent of Police,
O/o the Superintendent of Police,
Thackalay,
Kanyakumari District.
- 4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Padmanabhapuram.
- 5.Inspector of Police,
Marthandam Police Station,
Kanyakumari District.



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6.C.Gomathy

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to ensure that the corpse of the petitioner's brother namely, Ponnappan is buried in their land in old S.No.1498, R.S.No.543/5 Pacode A village, Kanyakumari District.

For Petitioner : Mr.S.Karthikeyan

For Respondents : Mr.D.Gandhi Raj
Spl. Govt. Pleader (for R1, R4)

Ms.M.Aasha
Govt. Advocate (crl. side)
(for R2, R3 and R5)

ORDER

This writ petition is filed seeking for issuance of a Writ of Mandamus directing the respondents to ensure that the corpse of the petitioner's brother namely, Ponnappan is buried in their land in old S.No.1498, R.S.No.543/5 Pacode A village, Kanyakumari District.



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2. According to the petitioner, his brother Ponnappan, aged about 62 years, died on 18.01.2024 and his body is kept in the freezer. His family has to bury his body in their land in S.No.543/5 in their family graveyard. However, the 6th respondent along with her family members and henchmen were decided to stop the burial of his brother's body in their land. The 6th respondent did not have any right over the said property, however, she is claiming right over the said property. Hence, he seeks permission and necessary police protection to bury his brother's body in their land.

3. According to the respondents 1 and 4, as per Section 279 of the Tamil Nadu District Municipalities Act, 1920, no new place for the disposal of the dead, whether public or private, shall be opened, formed, constructed, or used unless a licence has been obtained from the council on application. Such application for a licence shall be accompanied by a plan of the place to be registered, showing the locality, boundary and extent thereof, the name of the owner or person or community interested therein, the system of management and such further particulars as the council may require. The council may grant or refuse a licence or postpone the grant of a licence until



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objections to the site have been removed or any particulars called for by it have been furnished.

4. According to the respondents, no person shall bury, burn or otherwise dispose of any corpse except in a place which has been registered, licensed or provided as per Section 281 of the said of the Tamil Nadu District Municipalities Act, 1920. Hence, the petitioner has got no right to bury his brother's body in the land in question.

5. According to the respondents, as per the Rules 4 and 5 of the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules, 1999, every owner or other person having the control over the place used as a place for burying or burning of the dead shall, if such place is not already registered under the Act or any other Act, apply to the Village Panchayat to have such place registered. If it appears to the Village Panchayat that there is no owner or person having the control of such place, the Village Panchayat shall assume such control and register such place or may, with the sanction of the Assistant Direction (Panchayats) closed it. No new place for burying or burning the dead, whether private or public, shall be opened,



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formed, constructed or used, unless a licence has been obtained from the Village Panchayat on application. Such application for a licence shall be accompanied by the plan of the place for which licence is required showing the locality, boundary and extent thereof, the name of the owner or person or community interested therein, the system of management and such further particulars as the Village Panchayat may require. The Village Panchayat to which an application made may grant or if there is valid reason to be recorded in writing, refuse to grant a licence, or postpone the grant of a license until the objection, if any to the site has been cleared or any particulars called for by it have been furnished. The Assistant Director (Panchayats) may cancel or modify any order passed by a Panchayat under sub-rule (3).

6. In view of the above said provisions, this Court is of the view that the petitioner cannot bury his brother's body in their land. Hence, the petitioner is directed to approach the concerned authorities to bury his brother's body in the public graveyard.



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7. The petitioner has sought police protection when they take the body, however, the fifth respondent police has objected for the same. Since the petitioner needs police help when they do the last ceremony for his deceased brother, in order to avoid the untoward incident, this Court directs the respondent police to give necessary protection to the last ceremony of the petitioner's brother as the same has to be done peacefully.

8. This Writ Petition is **dismissed** accordingly. No costs. Consequently, connected miscellaneous petition is also dismissed.

19.01.2024

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

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V.BHAVANI SUBBAROYAN, J.

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