



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2025

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CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

Cont.P.No.577 of 2025
and W.P.No.26267 of 2023
and WMP Nos.25675 and 25679 of 2023

Cont.P.No.577 of 2025:

Athivanam Residents Welfare Association Auroville,
Represented by its Secretary Mr.S.Jepa Singh
No.61, PIPDIC Layout,
Auroville, Vanur Taluk,
Villupuram-605 101.

... Petitioner

VS

1.Dr.P.Senthil Kumar I.A.S.
Principal Secretary to Government
Rural Development And
Panchayat Raj Department
Fort St. George,
Chennai – 600 009.

2.Dr.C.Palani I.A.S.
The District Collector, Villupuram District
Master Plan Complex
Collectorate,
Villupuram – 605 602.

3.Mr.B.Natarajan
The Block Development Officer, Vanur
Koot Road, Acharampattu,
Villupuram-605 111.



4.Mr.J.Narayanamoorthy
The Tahsildar-Vanur Taluk
Taluk Office, Vanur,
Villupuram-605 109.

5.Mr.Senthil Murugan
The Village Administrative Officer, Pattanur Village
VAO Office, Pattanur,
Villupuram-605 111.

6.Mr.R.Vengatesan
President, Thiruchitrambalam Village Panchayat
Tindivanam Main Road & T C Koot Road,
Vanur, Villupuram-605 111.

7.Mr.Krishnamoorthy
The Inspector of Police,
Auroville Police Station,
Tindivanam Main Rd,
Thiruchitrambalam-605 111.

8.Mrs.Rani

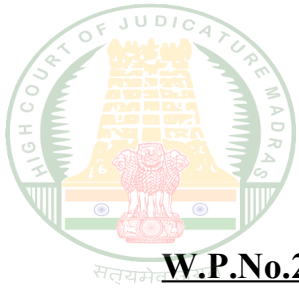
9.Mr.Senthil

10.Mr.Velu

11.Mrs.Jayakumari
Respondents

...

Prayer: Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish them for the willful violation and disobedience of the order passed by this Court in W.P.No.26267 of 2023 dated 14.09.2023.



AND

W.P.No.26267 of 2023:

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Athivanam Residents Welfare Association Auroville,
Represented by its Secretary Mr.S.Jepa Singh
No.61, PIPDIC Layout,
Auroville, Vanur Taluk,
Villupuram-605 101.

... Petitioner

VS

1.The State of Tamilnadu
Represented by its Principal Secretary
Rural Development And
Panchayat Raj Department
Fort St. George,
Chennai – 600 009.

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5.The Village Administrative Officer, Pattanur Village
VAO Office, Pattanur,
Villupuram-605 111.

6.Thiruchitrambalam Village Panchayat
Represented by its President
Tindivanam Main Road & T C Koot Road,
Vanur, Villupuram-605 111.

... Respondents



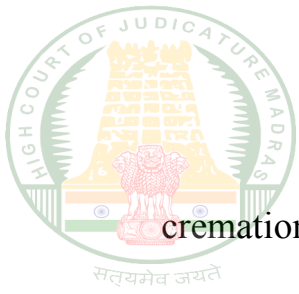
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Prayer : PETITION filed under Article 226 of the Constitution of India praying for writ of Mandamus, directing the Respondents not to proceed further with the construction of a cremation facility in the land comprised in R.S.No.139 Within 90 meters from the nearby residences and consequently direct the Respondents to remove the cremation facility within a distance of 90 meters from the residences of people living at PIPDIC Nagar and other residents around them at Pattanur Village, Vanur Taluk, Villupuram District.

<i>Case Nos.</i>	<i>For Petitioner</i>	<i>For Respondents</i>
Cont.P.No.577 of 2025	Mr.K.Newlin Frederick	Mr.P.anandakumar, (for R1 to R7) Government Advocate
W.P.No.26267 of 2023	Mr.K.Newlin Frederick	Mr.P.Anandakumar, (for R1 to R6) Government Advocate

COMMON ORDER

The Writ Petition has been filed by the Athivanam Residents Welfare Association, Auroville ('Association') seeking a mandamus directing the respondents being the State of Tamil Nadu, District Collector, Block Development Officer ('BDO'), Tahsildar, Village Administrative Officer ('VAO') and the Panchayat President (R1 to R6) not to proceed further with the construction of



cremation facility upon the land in R.S.No.139 ('land'/'subject land'), Pattanur

Village.

2. The reason for seeking mandamus is that the aforesaid land is admittedly within 90 meters from the residences of the Association members at PIPDIC Nagar and other residence at Pattanur Village, Vanur Taluk, Villupuram District. Since they allege that the respondents have already commenced construction of a cremation facility, there is a consequential direction sought to the respondents to remove the facility.

3. Mr.K.Newlin Frederick, learned counsel appearing for the petitioner submits that adjacent to the residential area where the members of the petitioner association reside there are huge parcels of poramboke land. The subject land and the residential area share a common boundary.

4. The cause of action arose on 18.12.2020 when, according to the petitioners, a human corpse had been brought to be cremated. Despite objections, the corpse was cremated and a police complaint had also been filed, despite which the petitioner alleges that other corpses were being brought in for cremation. According to the petitioner, the cremation is of unclaimed human corpses from the hospitals in Puducherry.



5. The residents continued to object, since the cremation resulted in emission of toxic gases and polluted the air in the residential area. They also allege that the ground water was being contaminated due to the burial of the human corpses there. In fact, burial grounds are available in Pattanur village in S.No. 184/1 (0.42.5 ares), 1/4 (0.67.0 ares) and 18/7 (0.18.0 ares). Thus, in their representations to the authorities, they had specifically requested that other burial grounds that were already being used for cremations may be utilized, to which there was no response.

6. An RTI application had been filed seeking the following information, to which replies were given, reading thus:

Queries	Replies
<i>What is the type of land in old S.No.139-3A, 3B and 3C. Does it belong to Gram Panchayat or Revenue Department?</i>	<i>The nature land comprised in R.S.No.139(4.13.5 ares) is 'Panamthoppu' and the land belongs to the 1st Respondent.</i>
<i>Whether the Porambokku land is allotted for burial ground?</i>	<i>The land is not allotted for burial ground.</i>
<i>If it is a no where is the burial ground for the Pattanur village allotted?</i>	<i>The burial ground for Pattanur village is comprised in S.No.184/1(0.42.5 ares), 1/4(0.67.0ares) and 18/7(0.18.0ares).</i>
<i>What are the survey Nos for the allotted burial ground?</i>	<i>The answer to this question needs to be answered by the Rural Development Sector, since this question was related to Rural Development Sector.</i>
<i>How many burial grounds will be allotted to a Gram Panchayat by the Government?</i>	



7. While so and the petitioner continued its tirade against the aforesaid activities, a board was placed upon the land on 23.01.2022 stating that it was a burial ground. According to the petitioner, the revenue records indicate that the land in question is classified as an panamthoppu.

8. The argument of the petitioner is that the proposed construction of the cremation ground in the subject land is contrary to the Tamil Nadu Village Panchayat (Provision of Burial and Burning Ground), Rules, 1999 (in short '1999 Rules'), specifically Rule 7 which stipulates the distance within which no burial or burning ground can be set up, and other conditions.

9. The petitioner relies on the judgment of the first Bench of this Court in *Jagadheeswari and Others v B.Babu Naidu and others*¹ as well as a Full Bench of this Court in the case of the same parties as aforesaid, decided on 20.07.2023. According to the petitioner, the conditions set out under the Rules are sacrosanct and cannot be violated.

10. Mr.Anandkumar, learned Government Advocate appearing for the respondents would submit that the objection of the petitioner has no basis as the land in question has been utilized as burial ground for long. For this purpose, he

¹ W.A.No. 1037 of 2023 dated 27.07.2023



would refer to representation dated 24.12.2020 wherein the petitioner had themselves stated that the subject land was being used as a burial ground for the last 50 years. Hence they cannot be permitted to raise an objection now, particularly when the construction of the crematorium is at an advanced stage. If their arguments were to be accepted then it would only constitute a huge waste of public money.

11. He has no defence as far as the 1999 Rules are concerned, relying upon the following judgments:-

- (i) *South Delhi Municipal Corporation v Federation of Residents Welfare Association, Vasant Kunj (Registered) and others*²
- (ii) *P.Muthusamy and another V. Mrs.B.Vennila and others*³
- (iii) *Maasi and another v the President, Palur Panchayat and others*⁴
- (iv) *Madurai Karpaga Nagar Nagarathar Sangam V. State and others*⁵

12. He makes reference to the counter filed by the third respondent/BDO wherein the oral submissions made by the learned counsel stand reiterated. As far as the alternate crematoriums are concerned, learned Government Advocate would only submit that the land in question is designated as crematorium only on the request of the residents in the vicinity.

² (2022) 14 SCC 443

³ W.A.No. 909 & 910 of 2014 dated 11.10.2022

⁴ W.P(MD) 7463 of 2007 dated 29.06.2007

⁵ W.P(MD) 13259 of 2021 etc dated 23.06.2022



13. Having heard both learned counsel, my view is that the 1999 rules relied upon by the petitioner would settle the issue in its favour. The 1999 Rules have been formulated vide GO (Ms) No.213, Rural Development (C4) dated 05.10.1999 and provide for the setting up of burial and burning grounds in the State of Tamil Nadu.

14. One of the stipulations under the Rule is that no corpse shall be buried in any place within 90 meters of the dwelling place or source of drinking water supply other than a place licensed as a burial and burning ground. Rule 7 is extracted below:-

The Tamil Nadu Village Panchayats (Provision of burial and burning grounds) Rules, 1999

(G.O. (Ms) No.213, Rural Development (C4), dated 5th October, 1999)

In exercise of the powers conferred by Section 116 and clause (xxxi) of sub-section (2) of Section 242 of the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994) and in supersession of the Rules relating to provision of burial and burning grounds, etc., the Governor of Tamil Nadu hereby makes the following Rules :-

RULES

.....



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7. Place for burial and burning grounds.- (1) No person shall bury or burn or cause to be buried or burnt any corpse in any place within ninety metres of a dwelling place or source of drinking water-supply other than a place licenced as a burial and burning ground.

(2) The person having control of a place for burying or burning the dead shall give information of every burial or burning of a corpse at such a place to any officer appointed by the Village Panchayat for this purpose.

(3) If a Village Panchayat is satisfied-

(a) that any registered or licenced place burying or burning of the dead is in such a state or situation as to be or likely to become dangerous to the health of persons living in the neighbourhood thereof; or

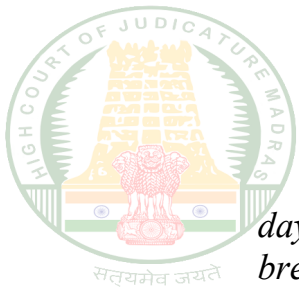
(b) that any burial ground is overcrowded with graves, and if in the case of a public burial or burning ground, another convenient place duly authorised for burying or burning of the dead exists or has been provided for the persons who would ordinarily make use of such place, it may with the previous sanction of the Assistant Director (Panchayats) give notice that it shall be not lawful after the expiry of a period of not less than two months to be specified such notice to bury or burn any corpse at such place.

(4) Every notice given under sub-rule (3) shall be published by affixture to the notice board of the Village Panchayat and by beat of drum in the village.

(5) No person shall in contravention of any notice under sub-rule (3) and after expiration of the period specified in such notice bury or burn or cause or permit to be buried or burnt any corpse at such place.

(6) The Inspector may cancel or modify any notice issued by a Village Panchayat under sub-rule (3).

(7) Whoever contravenes any of the provisions of these Rules shall be punishable with fine which may extend to one hundred rupees or in case of a continuing breach, with fine not exceeding fifteen rupees for every



day during which the breach continues after conviction of the first breach :

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Provided that no prosecution shall be instituted for contravening the provisions of sub-rule (1) of Rule 7 without the written sanction of the Executive Authority of the Village Panchayat, concerned.'

15. We are, in this Writ Petition, specifically concerned, with the violation of the distance stipulated under Rule 7(1), of 90 meters. Both parties have produced maps of the land in question and one of the maps indicate the existence of water bodies also, proximate to the crematorium.

16. Mr. Anandakumar states that the location of the water body (pond) in the petitioner's map is incorrect and that it is, as per the map circulated by the State, located at 145.20 meters from the crematorium. He also accedes to the position that the residences of some of the persons in PIPDIC Nagar, members of the petitioner association, are in close proximity and within the distance rule of 90 meters as stipulated under Rule 7(1). The distances range between 30 to 47.0 meters.

17. A status report has been called for from R3 wherein at para 9 he states as follows:-

'9) I submit that all the criteria given for the maintenance of a Crematorium in "The Tamilnadu Village Panchayats (Provision of Burial and Burning Grounds) Rules 1999 issued in G.O.(Ms.) No.213, Rural Development (C4) Department, dated 05.10.1999



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are complied with except the condition that minimum 90 metres distance from dwelling place detailed in paragraph 8.'

18. Thus the official report is itself categoric as to the violation of the distance condition. R3 has fairly set out the distances between the houses and the gasifier crematorium site based on the inspection conducted by the surveyor (Land Surveyor Section), Vanur Taluk, at para 8, extracted below:-

'8) I submit that after inspection, the Surveyor (Land Surveyor Section), Vanur Taluk has reported that

i) the minimum distance between the residential area and the Gasifier Crematorium site is 47.20m

ii) the minimum distance between the present burial ground in 'ThoppuPoromboke land and residential area is 45.40m

iii) the distance between the Gasifier Crematorium (S.No.139/1) and the nearest water body pond in S.No.130/3 is 145.20m

iv) the nearest private Compound wall and the Crematorium is 30.40m

v) the distance between the Crematorium and nearest Road is 91.20m.

19. With this it is clear that the respondents cannot be permitted to continue with the proposal for construction of gasifier crematorium in violation of the Rules. The Rules are clear and mandatory and the distance requirements have been



stipulated in the public interest and cannot be compromised. Incidentally, the petitioner has circulated a copy of the official map published by the Director of Survey and Settlement which reveals that Village No.300- Putturai, 301-Pattanur, Vanur Taluk and 302 -Tiruchitrambalam, have three crematoriums.

20. Though there is no crematoriums in the immediate vicinity of the land in question, this would not justify violation of the mandatory distance requirement. The fact that consent had been obtained from the Tamil Nadu Pollution Control Board and other authorities would be of avail to the respondents in light of the above admitted violation.

21. The cases relied upon by the respondents are now discussed. The decisions of the Supreme Court in the case of *South Delhi Municipal Corporation*, and of this Court in *P.Muthusamy*, and *Madurai Karpaga Nagar Nagarathar Sangam* (supra) do not support its cause. In those cases, the question was whether cremation/burial could take place in areas that have not been designated specifically as burial sites/cremation grounds.

22. The Division Bench of this Court in *P.Muthuswamy's* case considered the import of three enactments, the Tamil Nadu Panchayats Act, 1994 (Section 242), Tamil Nadu District Municipalities Act, 1920 (Section 281) and the Chennai



City Municipal Corporation Act (Sections 318 to 326), which provide for the burial and cremation. While under the Municipal and City Municipal Corporation areas there can be no burial or burning outside licensed or designated areas, in a Panchayat area, such restriction does not figure.

23. Courts have held that in those areas where cremation/burial is being carried on for several years and old graves are found there, that practice shall be permitted to continue. This is so even if those areas are not classified as burial grounds and the classification of the land is not as a burial ground, but otherwise such as Vandi Pathai or other classifications. Thus, in the absence of a prohibition in the 1999 Rules that burial/cremation should take place only in designated burial grounds, the Court held that such a restriction cannot be imposed, or be read into those Rules.

24. We are not concerned with such a situation. While the State has stated that the practice of cremation/burial has been going on in the land in question for several years, they only draw support for that statement from the representation of the petitioner. There is absolutely no material on record to establish that such a practice exists. The State has not brought on record any records for this purpose and in the absence of the same, this argument will not help the respondents.



Moreover, the State has placed a board only on 23.01.2022 declaring that the subject land is a crematorium militating against its own argument that the land in question has been a crematorium for long.

25. In the case of *Madurai Karpaga Nagar Nagarathar Sangam*(supra) the question was again different as it dealt with the Madurai City Municipal Corporation Act, 1971 which did not contain a distance rule as imposed under the 1999 Rules. So too in the case of *South Delhi Municipal Corporation*(supra), which decided a plea for shifting of a cremation ground. The Delhi Municipal Corporation had taken a decision based on the Delhi Municipal Corporation Act, 1957 not to shift cremation grounds being used as such for a long time.

26. The Court found that there was no danger posed to public health or hygiene and that the cremation ground at Masoodpur Village, New Delhi had been in existence for more than 100 years for the benefit of the village people of the neighbouring villages. Those grounds do not arise in the present case and are thus wholly distinguishable.

27. In *Maasi's* case, a learned Judge of this Court decided a mandamus to forbear the official respondents from shifting a cremation ground from a different place. The writ petitioners resided adjacent to the location to which the cremation



ground was to be shifted. Their objection was that the new location was proximate to an ancient temple and it would thus pollute the atmosphere and destroy the sanctity of the temple. The Court noted that the proposed site was 256 meters from the temple.

28. The 1999 Rules was not relied upon by the petitioners therein, ostensibly for the reason that there was no violation of any condition thereof. Referring to the Tamil Nadu Panchayats (Restriction and Control to Regulate the use of Porambores in Ryotwari Tracts) Rules, 2000 and the relevant provisions of the Tamil Nadu Panchayats Act, 1994, the Court held that all necessary safeguards have been prescribed under the Act and Rules and following those safeguards, it is open to a Village Panchayat to change classification of the Vaikal Poramboke to Poramboke land and put to different use including for the purpose of crematorium. The Court thus found nothing untoward in the proposal of the Government in that case.

29. In light of the detailed discussion as aforesaid, particularly proceeding on the mandatory nature of the Rules, mandamus as sought for by the petitioner is granted. Having said so, I agree with the respondents that as public money has gone into the construction of the crematorium, the construction should not be



demolished. The Court suggests that the construction may be utilized for some other public purpose, say as Anganwadi, Primary Health Centre or some other use having regard to, and taking inputs from the persons in the vicinity.

30. As far as the need for a crematorium to serve the neighbourhood, let a suitable piece of land be identified by the Government in tandem with the Rules and matters be taken forward in accordance with the applicable Rules.

31. The Writ Petition stands allowed. Connected Miscellaneous Petitions are closed. As far as the Contempt Petition is concerned, the State has confirmed compliance with the directions of the Court vide orders dated 14.09.2023 and, 03.06.2025 and hence, the petition is closed. No costs.

07.07.2025

Index: Yes
Speaking order
Neutral Citation: Yes
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