



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

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CORAM:

THE HONOURABLE MRs. JUSTICE N.MALA

W.P.No.14362 of 2025

P.R.Muruganandam

.. petitioner

vs

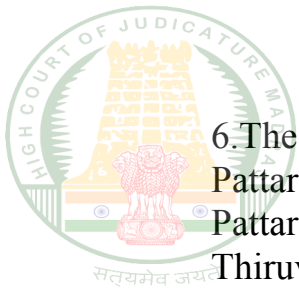
1. The District Collector
Thiruvallur District
Thiruvallur.

2.The Assistant Director (Panchayat)
Thiruvallur Collectorate
Thiruvallur District
Thiruvallur.

3.The Revenue Divisional Officer
Thiruvallur,
Thiruvallur District.

4.The Revenue Tahsildar,
Thiruvallur Taluk Office,
Thiruvallur District
Thiruvallur.

5.The Assistant Engineer
Highways Department
Construction and Maintenance
J.N.Road, Periyakkulam
Thiruvallur – 602 001.



6.The Special Officer
Pattaraiperumbudur Village Panchayat
Pattaraiperumbudur Village
Thiruvallur Taluk,
Thiruvallur District.

7.The Inspector of Police
Thiruvallur Taluk Police Station
Thiruvallur
Thiruvallur District.

8.Subramani Achari
9.Raja
10.Manikandan
11.Vaidvel
12.Shankar

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 to 7 to take stern action against the respondents 8 to 12 for burying the dead body of Kannammal on 09.04.2024 and order to exhume the body from S.No.283/1B1 and relocate the same in the notified burial ground situated at Pattaraiperumbudur Village, Thiruvallur Taluk by considering the petitioner's representations dated 11.04.2025 to ensure protection to his right to property.

For Petitioner : Mr.P.Krishnan.
For Respondents : Mr.V.Manoharan, AGP for R1 to R5.
Mr.M.Rajendran, AGP for R6.
Mr.Subbiah, GA for R7.



ORDER

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This writ petition is filed for direction to the respondents 1 to 7 to take stern action against the private respondents for burying the dead body of one Kannammal in a non designated place and to further exhume the body and relocate the same in the designated place.

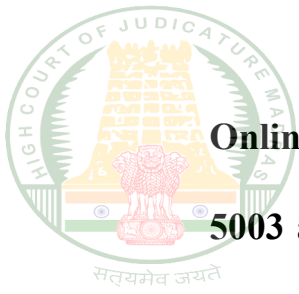
2. The petitioner is the owner of the property in various survey numbers in Pattaraiperumbudur Village, Thiruvallur Taluk. Whiles, on 09.04.2025, the respondents 8 to 12 and others buried the dead body of one Kannammal, right in front of the petitioner's property in the land belonging to the Highways Department. Since the land was not a designated place for the burial of the dead, the petitioner submitted his representation on 11.04.2025, to the respondents 1, 3, 4, 5 and 7 and Superintendent of Police, Thiruvallur, for appropriate action against the private respondents. However, no action was taken by the respondents on the petitioner's representation, and hence, the petitioner filed the above writ petition.



3. The respondents filed counter affidavit wherein it was admitted that the private respondents had buried the body of the said Kannammal in the vacant land in S.No.283/1B1, which was classified as Government Poramboke land. The respondents, however submitted that they had not permitted the private respondents, or any other persons, to bury the dead in any place other than the place notified by the revenue department under the Act. The respondents further submitted that the petitioner was using the Government land in S.No.283/1B1, to access his lands and that the petitioner could not claim usage of Government land, as a matter of right. For the said reasons, the respondents prayed for the dismissal of the writ petition.

4. The learned counsel for the petitioner submitted that as the body of the deceased Kannammal was buried in a non designated place, the petitioner had every right to pray for exhuming the body and for burial in the designated place.

5. The learned counsel for the petitioner relied on the judgments of this Court reported in (i)**B.Babu Naidu V. The District collector – 2023 SCC Online Mad 2746** (ii)**Jagadjeeswari V. B.Babu Naidu – 2023 SCC**



Online 4773 (iii)Jagadheeswari V. B.Babu Naidu – 2023 SCC Online

5003 and (iv)Jagadheeswari V. B.Babu Naidu – SLP(C).No.16725/2023,

in support of his contentions.

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6. The learned counsel for the respondents submitted that exhumation of the body cannot be permitted as a matter of right and in support of his contention relied on the judgment of the Hon'ble Supreme Court in **Manu/SC/1152/2022** reported in **Mohammed Latied Magrey V. The Union Territory of Jammu and Kashmir and others** and the unreported judgment of this Court in **WP.No.8328 of 2022 dated 26.04.2022**.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 to 6 and the learned Government Advocate (Crl.side) for the 7th respondent and perused the materials available on record.

8. The short point for examination in this writ petition is whether the body of the deceased Kanammal buried in S.No.283/1B1, should be



exhumed and relocated to the designated burial ground, at
Pattaraiperumbudur Village, Tiruvallur Taluk.

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9. The legal issue arising in this case is no longer res integra. The Full Bench of this Court in the case of **Jagadheeswari and others V.B.Babu Naidu and others** reported in **2023 SCC Online Mad 4773**, while answering the reference held as follows :-

“32.Thus, it is very clear that except the place which has already been registered under Rule 4 or a new place where license is obtained following the procedures contemplated under Rules 5(2) (3) and (4), no body can be buried or burnt in the place which is neither been registered or granted license.

33. That apart, it is also to be noted that Rule 6 mandates the village Panchayat to maintain a register at its office showing places which are provided, registered or licensed under Rules 3 to 5. The framers of the Rules were conscious of the fact that there may be violation of Rule 7(1). Therefore, the Rule prescribes punishment for contravention of Rule 7(1) but, prosecution shall be instituted only on written sanction by the Executive Authority of the village Panchayat concerned.



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34. The outcome of the above analysis of the Rules and case laws leads to the conclusion, that the condition of 90 meters restriction found in Rule 7(1) cannot be construed as right to bury body anywhere and everywhere. Burial or burning body is subject to the other provisions in the Rules. The conditions of distance restriction from the water body, cannot be read in isolation unmindful of the purpose of the Rules and other provisions thereunder.

35. The Division Bench in P. Muthusamy's case has not declared that body can be buried anywhere other than registered or licensed place in a village Panchayat. The Division Bench had only recognized the custom prevailing in that particular village. The observation made in the Muthusamy's case, is restricted only to the facts of that case and it cannot have application in rem.

36. 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 not adhered by the person concerned, the body is to be exhumed by the authority and collect the costs from the person



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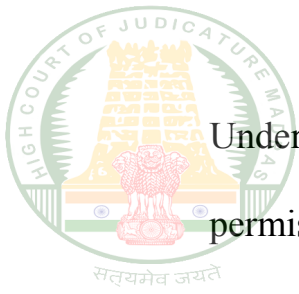
who is cause for that illegal burial. The exhumed body must be buried in the designated place, taking into consideration the public health.

Person who defies the law and refuses to 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."

10. The Hon'ble full bench has categorically held that any body buried in a non designated place is to be exhumed and buried in the designated place. However, the respondents submit that exhumation cannot be prayed as a matter of right, by relying on the judgments **Manu/SC/1152/2022** and **WP.No.8328 of 2022 dated 26.04.2022**.

11. I have gone through the judgments relied on by the learned counsel appearing for the respondents and I find that the judgments can be factually distinguished with the case on hand.

12. In the case of **Mohammad Latief Magrey** (cited supra) the appellant's son who was considered a militant was encountered by the police on 15.11.2021. The appellant after a lapse of one year from the date of death, approached the authorities for performing the last rites of his son.



Under the circumstances, the Hon'ble Supreme Court declined to grant permission to exhume the body. In the case in **WP.No.8328 of 2022** (cited supra) decided by this Court, the petitioner approached the Court for exhumation of the body, after a period of ten months, which probably impelled the Court to decline exhumation. However, in the present case, the deceased was buried on 09.04.2025, and the petitioner knocked the doors of this Court soon after on 16.04.2025. Hence, the decision relied on by the learned Additional Government Pleader appearing for the respondents is not applicable to the facts and circumstances of the case on hand. In any event, the Hon'ble Full bench having pronounced the law, this Court is not inclined to deviate from the same.

13. In view of the above discussions, I find merit in the writ petition.

Ergo, this Court is inclined to issue the following direction :-

(i) the first respondent is directed to exhume the dead body of the deceased Kannammal, from S.No.283/1B1, and bury the same in the designated burial ground.

(ii) The 7th respondent, is directed to provide adequate police protection for maintaining law and order, at the time of



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exhumation and burial in the notified place, so as to avoid any law and order problem, created if any, either by the private respondents or any other person or persons acting on their behalf.

(iii)The first respondent is directed to exhume the body of the dead and relocate the same in notified burial ground at Pattaraiperumbudur village, Tiruvallur District within a period of eight weeks from the date of receipt of a copy of this order.

14. With the above directions, this writ petition is allowed. No costs.

11.07.2025

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
1. The District Collector
Thiruvallur District
Thiruvallur.

10/12



2.The Assistant Director (Panchayat)
Thrivuallur Collectorate
Thrivuallur District
Thiruvallur.

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3.The Revenue Divisional Officer
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N. MALA, J.

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