



W.P.No.24091 of 2014 and W.P.(MD) No.13938 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.24091 of 2014 and W.P.(MD) No.13938 of 2014
And**

M.P.Nos.1 to 3 of 2014 and M.P.(MD) Nos. 1 and 2 of 2014

L.Joseph Wilson

... Petitioner in W.P.24091/2014

Kalai Arasi Sundar

... Petitioner in W.P.(MD).13938/2014

Vs.

- 1.The Government of Tamil Nadu
Rep. by its Home Secretary,
Fort St.George,
Chennai-9.
- 2.The District Collector,
Collectorate,
Thiruvarur District.
- 3.The Executive Magistrate and Tashildar,
Taluk Office, Kudavasal & Taluk,
Thiruvarur District.
- 4.The Superintendent of Police,
SP Office, Thiruvarur District.
- 5.The Deputy Superintendent of Police
Kudavasal & Taluk,
Thiruvarur District.



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6.The Inspector of Police
Kudavasal Police Station,
Thiruvarur District.

7.Kudavasal M.R. @ M.Rajendran

8.Mrs.Kalai Arasi Sundar

(R8 – Suo motu impleaded as per order

dated 20/09/14 by VRSJ in W.P.No.24091/14 &

M.Ps.1 to 3/2014)

... Respondents in W.P.24091/2014

1.The District Collector,
Thiruvarur District.

2.The Tahsildar
Kodavasal Taluk,
Thiruvarur.

3.The Deputy Superintendent of Police
Nannilam Sub Division,
Nannilam,
Thiruvarur.

4.The Inspector of Police
Kodavasal Police Station,
Thiruvarur.

5.D.Gunasekar

6.Kodanthai Arasan

... Respondents in W.P.(MD).13938/2014

Prayer in W.P.No.24091 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus call for the records pertaining to the impugned order Na.Ka.26/2014/A1 dated 18.08.2014 passed by the third respondent and quash the same and consequently to direct



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the 1st to 6th respondents to take necessary action against the seventh respondent and consequently to provide necessary protection to the petitioner to use the land in S.No.43/4 as burial ground.

Prayer in W.P.(MD) No.13938 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 4 herein to implement the orders of the second respondent in Na.Ka.26/2014/A1 dated 18.08.2014, thereby exhume the corpse of Louis, S/o.Devasahayam buried on 17.08.2014 in S.No.43/4 and bury the corpse in S.No.49/1 Serukalathur Village meant for burial ground of Christian Religion and consequently direct the respondents 1 to 4 herein to take appropriate statutory action against the respondents 5 and 6 in accordance with law.

For Petitioners : Mr.P.Vijendran
in W.P.24091 of 2014

M/s.Mohd. Ismail
in W.P.(MD).13938 of 2014

For Respondents : Ms.P.Aishwarya for R1 to R6
Government Advocate
Mr.A.Mohd. Ismail for R7 & R8
in W.P.24091 of 2014

Ms.P.Aishwarya for R1 to R4
Government Advocate
R5 – No Appearance
Mr.P.Vijendran for R6
in W.P.(MD).13938 of 2014

COMMON ORDER



W.P.No.24091 of 2014 and W.P.(MD) No.13938 of 2014

W.P.No.24091 of 2014 has been filed seeking issuance of a Writ

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of Certiorarified Mandamus calling for the records pertaining to the order in Na.Ka.26/2014/A1 dated 18.08.2014 passed by the third respondent and quash the same and consequently to direct the respondents 1 to 6 to take necessary action against the seventh respondent and consequently to provide necessary protection to the petitioner to use the land in S.No.43/4 as burial ground.

2.W.P.(MD) No.13938 of 2014 has been filed seeking issuance of a Writ of Mandamus directing the respondents 1 to 4 to implement the orders of the second respondent in Na.Ka.26/2014/A1 dated 18.08.2014, thereby exhume the corpse of Louis, S/o.Devasahayam buried on 17.08.2014 in S.No.43/4 and bury the corpse in S.No.49/1 Serukalathur Village meant for burial ground of Christian Religion and consequently direct the respondents 1 to 4 to take appropriate statutory action against the respondents 5 and 6 in accordance with law.

3.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order.



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4.The learned counsel appearing for the petitioner in W.P.No.24091 of 2014 would submit that the petitioner belong to Scheduled Caste Christian religion and more than 450 Christian families and some of the Scheduled Caste Hindu families are living in the Serukalathur Village. The petitioner's father expired on 16.08.2014 and the petitioner buried the body in the cemetery situated at Serukalathur Village in Survey No.43/4 and the last rites were done on 17.08.2014. When the 16th day ceremony was scheduled to be held on 31.08.2014, the third respondent issued the impugned notice prohibiting the petitioner from doing the 16th day ceremony stating that the said land is classified as Nanjai land.

5.The learned counsel appearing for the petitioner in W.P.No.24091 of 2014 would further submit that in so far as the Dalit Christian are concerned, they have separate cemetery and since it was not enough to bury the dead bodies, on behalf of Church, one Yesudass purchased the land in S.No.43/4 to an extent of 0.09.50 Hects from one S.P.Krishnamoorthy Iyer on 11.04.1975 and the same was registered in the Sub Registrar Office, Kudavasal and the land purely vest with the Church and the said land is classified as Punjai



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land and hence the impugned order is not sustainable one.

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6.Per contra, the learned counsel appearing for the petitioner in W.P.(MD) No.13938 of 2014 would submit that the issue involved is no longer res integra. The Hon'ble Full Bench of this Court in the case of ***Jagadheeswari and others Vs. B.Babu Naidu and others*** reported in ***2023 SCC Online Mad 4773*** has clearly held that the dead body cannot be buried in Nanjai land or private land and it has to be buried only as per the Government notification and hence, the impugned order has to be implemented in letter and spirit. Accordingly, prayed to issue direction to the respondents 1 to 4 to implement the order of the second respondent dated 18.08.2014.

7.The learned Government Advocate did not dispute the facts submitted by the learned counsel appearing for the petitioner in W.P.(MD) No.13938 of 2014.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.The facts of the case is not in dispute. Admittedly, the



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petitioner in W.P.No.24091 of 2014 has filed the writ petition challenging the prohibitory order passed by the Executive Magistrate and Tashildar, Taluk Office, Kudavasal & Taluk, Thiruvarur District. The issue involved is no longer *res integra* and the same has already been considered by the Hon'ble Full Bench of this Court in the case of ***Jagadheeswari and others Vs. B.Babu Naidu and others*** reported in **2023 SCC Online Mad 4773**. The relevant portion of the said decision is extracted hereunder:

"33. 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.

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



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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 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.In view of the categorical decision rendered by the Hon'ble Full Bench of this Court, no one is entitled to bury dead body in the Nanjai Land and can bury the body only in the earmarked burial ground declared by the State Government. Hence, this Court is not inclined to grant the prayer sought for in W.P.No.24091 of 2014.

11.W.P.No.24091 of 2014 is disposed of with liberty to the petitioner to work out the remedy before the competent civil Court. W.P.(MD) No.13938 of 2014 is disposed of with direction to the



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respondents 1 to 4 to implement the order passed by the Executive Magistrate and Tashildar, Taluk Office, Kudavasal & Taluk, Thiruvarur District dated 18.08.2014 in letter and spirit. No costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

- 1.The Home Secretary,
Fort St.George,
Chennai-9.
- 2.The District Collector,
Collectorate,
Thiruvarur District.
- 3.The Executive Magistrate and Tashildar,
Taluk Office, Kudavasal & Taluk,
Thiruvarur District.
- 4.The Superintendent of Police,
SP Office, Thiruvarur District.
- 5.The Deputy Superintendent of Police
Kudavasal & Taluk,
Thiruvarur District.
- 6.The Inspector of Police
Kudavasal Police Station,
Thiruvarur District.

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7.The Deputy Superintendent of Police
Nannilam Sub Division,
Nannilam,
Thiruvavarur.

M.DHANDAPANI,J.
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