



W.P.No.22222 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2025

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THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

W.P.No.22222 of 2024
and
W.M.P. No.24194 of 2024 in W.P. No.22222 of 2024

1.K.S.Ponnusamy
2.P.Saraswathy

.. Petitioners

VS

- 1.The District Collector,
Collectorate,
Erode – 638 011
Erode District.
- 2.The Revenue Divisional Officer,
Gobichettipalayam 638 452
Erode District.
- 3.The Revenue Tahsildar,
Anthiyur Taluk,
Erode District.
- 4.The Executive Engineer,
Water Resources Development,
Public Works Department,
Bhavanisagar Division,
Bhavanisagar, Erode District.



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5.The Block Development Officer,
Thavuttupalayam Panchayat Union,
Thavuttupalayam, Anthiyur Taluk,
Erode District.

6.Ramakrishnan,
President of Kuppandampalayam
Village Panchayat,
Thavuttupalayam,
Anthiyur Taluk, Erode District.

7.K.Gurunathan,
S/o.Karuppan,
Member of Ward No.1,
Kuppandampalayam Village Panchayat,
Karattur, Anthiyur Taluk,
Erode District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondents from using or converting the Odai (water body) in S.F.No.197 of Kuppandampalayam Village, Anthiyur Taluk, Erode District as a burial/cremation ground, in contravention of the Rules 5 and 7 of the TN Village Panchayats (Provision of Burial and Burning Grounds) Rules, 1999 by taking action on petitioners' representation dated 23.06.2024 to maintain the water body in its original position as per Circular No.T1/23155/2005 dated 19.07.2005 issued by the Commissioner of Land Administration, Chepauk, Chennai.

For Petitioners : Mr.S.Shrish
for Mr.N.Manokaran

For Respondents : Mr.K.Suresh,
Government Advocate
for R1 to R5



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ORDER

[Order of the Court was made by M.SUNDAR, J.]

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Subject matter of captioned main 'Writ Petition' (hereinafter 'WP' for the sake of brevity) is 'S.F.No.197 situate in 40, Kupbandampalayam Village, Anthiyur Taluk, Erode District' which is classified as 'Odai' vide revenue records and the same shall hereinafter be referred to as 'waterbody' for the sake of convenience and clarity.

2. Mr.S.Shrish, learned counsel representing Mr.N.Manokaran, learned counsel on record for writ petitioners expressed regret for missing the matter in the previous listing on 20.06.2025 (to be noted, captioned matter is listed under the cause list caption 'FOR DISMISSAL'). 'FOR DISMISSAL' cause list caption is deleted and the matter is taken up.

3. Learned counsel for writ petitioners submits that kernel of the captioned WP is one burial on 21.06.2024 in said waterbody. Elaborating on this, learned counsel for writ petitioners submits that said burial is completely contrary to 'The Tamil Nadu Village Panchayats (Provision of burial and burning grounds) Rules, 1999' (hereinafter 'said Rules' for the sake of convenience and clarity) and



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more particularly Rules 5 and 7 thereat. To be noted, said Rules is a set of subordinate legislation having been made by the Government of Tamil Nadu in exercise of rule making power under Section 242 of 'The Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21/94)' {hereinafter 'said Act' for the sake of convenience and clarity}.

4. To be noted, Rule 5 of said Rules is captioned 'Conditions for opening of burial and burning ground' and Rule 7 of said Rules is captioned 'Place for burial and burning grounds'

5. Considering the stated position of learned State counsel, this Court is of the considered view that it is really not necessary to dilate on these Rules.

6. Adverting to earlier proceedings dated 07.08.2024 made by Hon'ble Predecessor Bench, learned State counsel submits that status report (status report of R4 - Executive Engineer, Water Resources Development, Public Works Department, Bhavanisagar Division, Bhavanisagar, Erode District) dated 20.08.2024 and written instructions from R4 dated 20.06.2025 have been placed before us.



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7. Learned State counsel draws our attention to a portion of paragraph 9 of the aforementioned status report and the same reads as follows:

'9..... so also it will be ensured that No Burial/Cremation would take place in the R.S.No.197 which is classified as Government Poramboke Odai.'

8. Adverting to aforementioned written instructions dated 20.06.2025 vide Letter No.F.30/Court Case/2025/AE(A) learned State counsel submits that written instructions refers to burial as encroachment. Removal of encroachment is necessarily a reference to exhuming the burial made on 21.06.2024 and burial of the same in the designated place. In this regard, it is submitted that the question as to whether burial can take place at a place other than designated place (particularly when the designated place exists in a village) qua said Rules was referred to a Hon'ble Full Bench of this Court and Hon'ble Full Bench answered this question in ***Jagadheeswari case (Jagadheeswari and Others Vs. B.Babu Naidu and Others)*** reported in ***2023 SCC OnLine Mad 477***. The case on hand has been brought in consonance with ***Jagadheeswari principle*** is learned State counsel's say. This submission is recorded.



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9. As regards the aforementioned averment in the status report which has been extracted and reproduced supra, the same is recorded as an undertaking given to this Court.

10. We make it clear that we have not expressed any view or opinion on the rights and/or contentions of private respondents/R6 and R7. We also make it clear that this order will not impact the rights of private respondents/R6 and R7. Ideally, all the rights and contentions of private respondents/R6 and R7, if any, will stand preserved. Therefore, there is no impediment in dispensing with notice to R6 and R7 and taking up the main WP with the consent of learned counsel for writ petitioner and learned State counsel. We do so and we give a closure to the captioned main WP and captioned WP is disposed of in the aforesaid manner i.e., recording the stated position of learned State counsel. Consequently, captioned Writ Miscellaneous Petition (WMP) thereat is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (R.S.V.,J.)
23.06.2025

Index : Yes/No
Neutral Citation : Yes
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**M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,**

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