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W.P.No.25094 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25094 of 2023

Karuppusamy

... Petitioner

Vs.

- 1 THE DISTRICT COLLECTOR,
DISTRICT COLLECTOR OFFICE,
ERODE.
- 2 THE REVENUE DIVISIONAL OFFICER,
GOBICHETTIPALAYAM,
ERODE DISTRICT.
- 3 THE THASILDHAR,
ANTHIYUR,
ERODE DISTRICT.
- 4 THE ASSISTANT ENGINEER,
PUBLIC WORKS DEPARTMENT,
(WATER RESOURCES MANAGEMENT)
BACKSIDE TO SUB – REGISTRAR OFFICE,
ANTHIYUR,
ERODE DISTRICT.
- 5 THE PRESIDENT,
MICHELPALAYAM PANCHAYAT,
MICHELPALAYAM,
ANTHIYUR TALUK,
ERODE DISTRICT.
- 6 C.SRINIVASAN
- 7 R.MARIMUTHU



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8 P.MURUGAN

9 R.SURESH

10 A.SHANMUGAM

(R6 to R10 are impleaded as per
order dated 13.10.23 in WMP.26925/23
in WP.25094/23 by Dr.ASMJ)

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to take appropriate action by not allowing anyone to bury or burn the dead bodies at the property comprised at SF.No.905/2 at Anthiyur A revenue Village, Anthiyur Taluk, Erode District or any other non-designated area of the said Village and consequently direct the respondents to exhume the dead body of the deceased Gurusamy S/o. Chinna Boyan which was buried on 15.08.2023 at SF.No.905/2 at Anthiyur A revenue Village, Anthiyur Taluk, Erode District and bury the same at the designated burial ground by considering the representation of the petitioner herein dated 15.08.2023.

For Petitioner : Ms.D.Jeevitha

For Respondents : Mrs.S.Anitha for R1 to R5
Special Government Pleader

ORDER

This writ petition has been filed seeking issuance of Writ of Mandamus, directing the respondents to take appropriate action by not allowing anyone to bury or burn the dead bodies at the property comprised at SF.No.905/2 at Anthiyur A revenue Village, Anthiyur



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Taluk, Erode District or any other non- designated area of the said Village and consequently direct the respondents to exhume the dead body of the deceased Gurusamy S/o. Chinna Boyan which was buried on 15.08.2023 at SF.No.905/2 at Anthiyur A revenue Village, Anthiyur Taluk, Erode District and bury the same at the designated burial ground by considering the representation of the petitioner herein dated 15.08.2023.

2.The learned counsel appearing for the petitioner submitted that the petitioner is having agricultural property at SF.No.904/1A2 at Anthiyur A revenue Village, Anthiyur Taluk, Erode District. On the Northern side of the petitioner's property a public tank is existing in SF.No.905/2 which is a Government poromboke natham and the petitioner is using the said pathway to reach the petitioner's patta land. The learned counsel further submitted that the residents of Poiyerikarai Village are having burial ground at Samathuvapuram and Oonjakadu, despite that, they are burying the dead bodies in SF.No.905/2 instead of burying the dead bodies in the notified burial ground. In this regard, the petitioner made representation to the respondents, however, there is no response. Hence, this Court may direct the respondents to exhume the dead body of the deceased



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Gurusamy S/o. Chinna Boyan which was buried on 15.08.2023 at SF.No.905/2 at Anthiyur A revenue Village, Anthiyur Taluk, Erode District and bury the same at the designated burial ground.

3.The learned counsel appearing for the petitioner further submitted that the issue involved in the writ petition 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.

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

5.The issue involved in the writ petition 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



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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 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



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accompli'. Accordingly, the order of reference is answered in negative."

6.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 any other place other than the place earmarked for burial ground and can bury the body only in the earmarked burial ground declared by the State Government. Hence, this Court directs the official respondents to exhume the dead body of the deceased Gurusamy S/o. Chinna Boyan which was buried on 15.08.2023 at SF.No.905/2 at Anthiyur A revenue Village, Anthiyur Taluk, Erode District and bury the same at the designated burial ground.

7.This writ petition is disposed of with the above observation.

No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No



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