



W.P (MD).No.19058 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2025

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No.19058 of 2024

and

W.M.P(MD)Nos.16132 & 16134 of 2024

C.Aayee Manickam

... Petitioner

Vs.

1.The District Collector,
Thanjavur District,
Thanjavur-613 010.

2.The Tahsildar,
Orathanadu Taluk,
Thanjavur District.

3.The Block Development Officer
(Village Panchayat),
Orathanadu Taluk,
Thanjavur District.

4.The President,
Parangivettikadu Village Panchayat,
Orathanadu Taluk,
Thanjavur District.

5.T.Veeraiyan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to



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the impugned order in Na.Ka.No.1868/2024/AA2 dated 01.08.2024 passed by the third respondent and quash the same as illegal and to consequently direct the fourth respondent to register the land in S.F.No.514/8 in Parangivettikadu, Orathanadu Taluk, Thanjavur District as burial ground under Section 4 of the Tamil Nadu Village Panchayats (Provision of burial and burning grounds) Rules, 1999.

For Petitioner	: Mr.D.R.Gokul Abimanyu for Mr.Arul Vadivel @ Sekar Senior Counsel
For R1 to R4	: Mr.D.Gandhi Raj Special Government Pleader
For R5	: Mr.Ananth C.Rajesh

ORDER

This writ petition has been filed challenging the order passed by the third respondent, dated 01.08.2024, thereby, directed to exhume the dead body of the petitioner's husband and buried the same in the burial ground.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The petitioner's husband owned the land comprised in S.F.No. 514/8 situated at Parangivettikadu, Orathanadu Taluk. The said land was originally owned by the petitioner's grand-father and after his demise, her



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husband inherited the same. The fifth respondent owned land comprised in S.F.No.514/7 in the same village. Before the UDR, the property comprised in S.F.No.514/8 belonged to the petitioner's husband stood as S.F.No.514/2 and after UDR, S.F.No.514/2 was sub-divided as S.F.Nos.514/2A, 514/2B and 514/8. The land comprised in UDR S.F.No.514/7 belonged to the fifth respondent stood as S.F.No.514/8 and after UDR it became S.F.No.514/7. Utilising the said circumstances, the fifth respondent herein claiming title over the property in S.F.No.514/8 and filed an appeal before the District Revenue Officer and it is pending.

4. In the meanwhile, the fifth respondent is attempting to interfere with the peaceful possession and enjoyment of the subject property of the petitioner and her husband. Therefore, the petitioner's husband constrained to file a suit in O.S.No.85 of 2012 on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu for permanent injunction and the same was decreed with judgment and decree, dated 03.07.2019. Aggrieved by the same, the petitioner preferred an appeal in A.S.No.9 of 2020 and it pending on the file of the Sub Court, Pattukkottai, Thanjavur District. While being so, the petitioner's husband died on 26.05.2021 due to Covid-19. The body was taken charge by the authorities of the Health Department and the fourth respondent, however,



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they did not permit the petitioner and her family members even to see the body.

That apart, there is no burial ground in their village and therefore, the authorities decided to bury the petitioner's husband body in the petitioner's land in S.No.514/8 situated at Parangivettikadu Village, Ambalapattu South, Orathanadu Taluk, Thanjavur District. Therefore, there is no violation of any of the provision and rules.

5. After his demise, the petitioner has constructed a tomb at the place of burial and the every death anniversary has been performed by the petitioner and all other relatives. While being so, the fifth respondent filed a writ petition in W.P.(MD)No.14839 of 2021 before this Court and this Court by an order dated 06.11.2023 directed the fifth respondent to make a fresh representation before the Panchayat President and in turn, the Panchayat President is directed to consider the same in the light of the judgment passed in W.A(MD)No.1037 of 2023, dated 20.07.2023 and dispose of the same within a period of six weeks after giving notice to all the parties. In pursuant to the order passed by this Court, the fourth respondent passed a resolution that the subject property belongs to the petitioner's husband and due to advise of the Health Department and other authorities concerned, the body of the petitioner's husband was buried and it causes no disturbance to others and therefore, no need to exhume the



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body to bury in a burial ground. However, the fifth respondent herein filed a contempt petition before this Court in Contempt Petition.No.1193 of 2024 for non-compliance of the order passed by this Court in W.P.(MD)No.14839 of 2021, dated 06.11.2023. In order to face the contempt proceedings, the third respondent is not an authority concerned passed the order impugned in this writ petition dated 01.08.2024 thereby, directed the second respondent exhume the body of the petitioner's husband and bury the same in the burial ground as directed by this Court.

6. As directed by this Court in W.P.(MD)No.14839 of 2021, dated 06.11.2023, the fourth respondent has also passed an order by way of resolution, thereby, complied the order passed by this Court. Therefore, the third respondent has absolutely no jurisdiction to pass the order impugned in this writ petition and it cannot be sustained in the eye of law. That apart as stated supra, the fifth respondent has no semblance of right over the subject property in which, the body of the petitioner's husband was buried. The appeal filed by the fifth respondent before the District Revenue Officer in respect of UDR is pending and the appeal filed in A.S.No.9 of 2020 as against the judgment and decree passed in favour of the petitioner's husband in O.S.No.85 of 2012 is also pending. That apart, admittedly, the petitioner's husband died



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due to Covid-19 and on the face of the Health Department and other authorities,
the petitioner's husband body was buried in the subject property owned by him.

Therefore, the order passed by the third respondent is liable to quashed and it is
quashed.

7. Accordingly, the order of the third respondent dated 01.08.2024 is
set aside and the writ petition is allowed. No costs. Consequently, connected
miscellaneous petitions are closed.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
am

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To

WEB COPY

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G.K.ILANTHIRAIYAN, J.

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