



W.P(MD)No.163 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

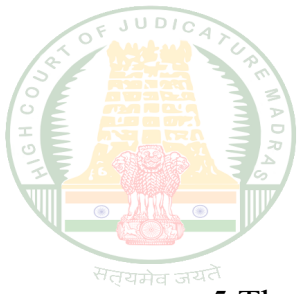
**W.P(MD)No.163 of 2025
and
W.M.P.(MD) Nos.170 and 172 of 2025**

S.Venkatesh

... Petitioner

Vs.

- 1.The Principal Secretary to Government of Tamilnadu,
HR and CE Department,
Fort St. George, Rajaji Salai,
Chennai - 600 009.
- 2.The District Collector,
Tirunelveli District,
Collectorate, Kokkirakulam,
Tirunelveli - 627 009.
- 3.The Tahsildar,
Thisayanvilai Taluk,
182, Manna Raja Koil,
3rd Cross Street, Thisayanvilai,
Tamil Nadu - 627 657.
- 4.The Commissioner,
HR and CE Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai - 600 034.



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5. The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Government of Tamilnadu,
Arulmigu Subramaniasamy Temple,
JC Office Campus, Tiruchendur – 628 215.

6. The Superintendent of Police,
High Ground Road,
Palayamkottai, Tirunelveli,
Tamil Nadu - 627 002.

7. The Inspector (Crime),
Thisayanvayal Police Station,
SH 89, Thisayanvilai, Selvamaruthur,
Tamil Nadu - 627 657.

8. The Inspector (Law and Order),
Thisayanvayal Police Station,
SH 89, Thisayanvilai, Selvamaruthur,
Tamil Nadu - 627 657.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to take appropriate action, restraining the villagers of Vijayachampadu, Ittamozhi, Thisayanvayal and neighbouring villagers from burying dead bodies in the lands belonging to Arulmigu Subramania Swamy Temple Trust, Tiruchendur, in Survey Nos.307/4A, 307/4B, 787/1A, 1C, 1D, 1F, 788/1, 2, 4, 5, 7, 8, 9, 10, 12, 15, 16, 17, 19, 21, 23, 24, 25, 789/1, 790/2, 5, 6, 7, 11, 12, 791/1, 2B, 793/1A4, 3, 9, 10, 12, 14, 794/1A, 795/1C, 2, 13, 14, 20, 26, 27, 28, 802 and various other lands, based on the representation of the petitioner dated 27.11.2024.



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For Petitioner : Mr.M.Ragul Kousik
For RR1 to 5 : Mr.J.Ashok
Additional Government Pleader
For RR6 to 8 : Mr.T.Senthil Kumar
Additional Government Pleader

ORDER

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

This writ petition has been instituted to direct the respondents to take appropriate action restraining the villagers of Vijayachampadu, Ittamozhi, Thisayanvayal and neighbouring villagers from burying dead bodies in the lands belonging to Arulmigu Subramania Swamy Temple Trust, Tiruchendur, in Survey Nos.307/4A, 307/4B, 787/1A, 787/1C, 787/1D, 787/1F, 788/1, 788/2, 788/4, 788/5, 788/7, 788/8, 788/9, 788/10, 788/12, 788/15, 788/16, 788/17, 788/19, 788/21, 788/23, 788/24, 788/25, 789/1, 790/2, 790/5, 790/6, 790/7, 790/11, 790/12, 791/1, 791/2B, 793/1A4, 793/3, 793/9, 793/10, 793/12, 793/14, 794/1A, 795/1C, 795/2, 795/13, 795/14, 795/20, 795/26, 795/27, 795/28, 802 and various other lands, based on the representation of the petitioner dated 27.11.2024.



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2. The petitioner states that temple lands belonging to Arulmighu Subramaniya Swami Temple have been illegally utilised as burial ground by the people residing in Vijayachampadu, Ittamozhi and Thisayanvayal and the surrounding villages. Since the temple lands cannot be used as a burial ground, the present writ petition has been instituted to prevent burial of corpses in an illegal manner and more specifically, in violation of the provisions of the Tamil Nadu Urban Local Bodies Act, 1998.

3. The learned counsel for the petitioner would contend that admittedly the subject property belongs to the fifth respondent-temple and the people residing in Vijayachampadu, Ittamozhi and Thisayanvayal and the surrounding villages are illegally using the temple lands as burial ground, despite the fact that the temple authorities raised an objection.

4. The learned Additional Government Pleader would submit that the Revenue Tahsildar, Thisayanvilai, has already addressed a letter to the Joint Commissioner/Executive Officer of the fifth respondent-temple on 20.05.2025 to allot some temple lands to the villagers of



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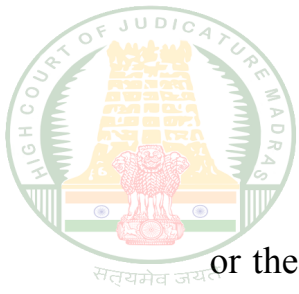
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Vijayachampadu, Ittamozhi and Thisayanvayal for the purpose of utilising the same as burial ground by the people residing in the locality.

The said letter is under consideration of the Hindu Religious and Charitable Endowments (HR & CE) Department. That apart, the Revenue Tahsildar has stated that the surrounding area of Vijayachampadu, Ittamozhi and Thisayanvayal villages in entirety belonged to the fifth respondent temple and there is no other alternate Government poramboke land to be allotted to the villagers for the purpose of granting permission to bury corpse.

5. The learned counsel appearing for the fifth respondent-temple would strenuously oppose by stating that Government poramboke lands are very much available in the nearby locality. He has also produced revenue records to establish that Government poramboke lands and gramanatham lands are very much available and the same can be utilised for the purpose of burial of dead bodies.

6. When Government poramboke lands and natham lands are available, there is no reason to address any letter to the temple authorities



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or the HR & CE Department. Pertinently, the issues relating to usage of temple land as burial ground is no more *res integra*.

7. A Division Bench of this Court, in its order dated 25.11.2022 in W.P.(MD) No.8310 of 2018 has held as follows:

“10.At the same time, it cannot be allowed to bury dead bodies in the land belonging to the temple. This court has time and again reiterated that the lands belonging to the temples are used only for religious purposes and the activities connected therein; and that the HR & CE Department is the custodian of the temples and its properties, and the authorities should take all effective measures to safeguard the same from encroachment / unauthorized occupation. That apart, a duty is cast on the Commissioner under Section 23 of the HR&CE Act, to ensure that the temples and endowments are properly administered and their income is duly appropriated for the purposes for which they were founded or exist; and the Joint Commissioners are clothed with the powers under Sections 78, 79 and 80 to retrieve the temple lands from the encroachers.”



8. A Full Bench of this Court, in its judgment dated 20.07.2023 in

W.A.No.1037 of 2023, has held as follows:

“5. Being aggrieved, Jagadeeshwari, W/o late Narashimmulu Naidu and others preferred writ appeal in W.A.No.1037 of 2023. After hearing the counsels, the First Bench of this Court consisting the Hon'ble Chief Justice and Hon'ble Justice P.D.Audikesavalu, found that the Division Bench of this Court in the case of P.Muthusamy and another v. B.Vennila and Others in W.A.Nos.909 and 910 of 2014, had delivered a judgment on 21.11.2022, without specific reference to Rules 4 and 5 of Tamil Nadu Panchayats Act, 1994 and the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules, 1999, though it has extensively discussed and interpreted Rule 7. Hence, the interpretation of Rule 7 of the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules, 1999, by the Division Bench in the case of P.Muthusamy and another, cited supra, needs reconsideration.

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.....

29. When we look at Rule 7(1) of Tamil Nadu Village Panchayat (Provision of Burial and Burning



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Grounds) Rules 1999, we find that it is analogous to the Kerala Rules 5(i) which was interpreted the way it should be.

30. Both Rules 5 and 7 of the Tamil Nadu Village Panchayat (Provision of Burial and Burning Grounds) Rules 1999 start with a negative clause. Rule 5 prohibits new place for burying or burning the dead without license obtained from village Panchayat. Rule 7 prohibits burning or burying any corpse, in any place, within 90 meters of the dwelling place or source of drinking water supply. The place licensed as burial and burning ground is exempted from the 90 meters restriction. Rule 5(1) does not indicate that the place where a body is buried or burnt, will not carry the character of burial ground or burning ground. If, single body is burnt or buried and the land owner has no intention to allow burial of body in future. Whoever prefers a new place whether private or public to be used for burying or burning the dead, license from the Panchayat is a pre-requisite. 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.



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31. 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.

32. 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.”

9. Hon'ble Apex Court in the case of **Ramesh Baghel vs. State of Chhattisgarh and others**, reported in **2025 INSC 109**, held as follows:

“22.3. ...

5. Place for disposal of corpses.-

No place other than a place approved by the



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Gram Panchayat by an order in writing duly published in the village, which shall be known as burning ghat or burial ground or a place determined by the Government or in the Government records shall be used for the disposal of a corpse by burning, burying or otherwise.”

10. Apart from the judgments cited supra, Section 172(3) of the Tamil Nadu Urban Local Bodies Act, 1998 stipulates that “no person shall bury or burn any corpse except in a place, which has been registered or licensed or provided as aforesaid”.

Therefore, burial activities are to be undertaken only in the licensed area and in the manner contemplated under law.

11. As noted above, the Revenue Tahsildar, Thisayanvilai has stated that there are no Government lands available for burial of dead bodies in Vijayachampadu, Ittamozhi and Thisayanvayal villages. Therefore, he has addressed a letter to the Joint Commissioner/Executive Officer of the fifth respondent-temple.



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12. Per contra, the learned counsel appearing for the fifth respondent would submit that alternate Government poramboke lands and natham lands are available in the nearby locality.

13. However, these contrary submissions are to be verified by conducting field inspection by the competent authorities. But, it is to be made clear that burial of dead bodies are to be made only in the licensed area. People cannot bury dead bodies in a place, which has not been notified under the provisions of the Act.

14. Right to bury is a fundamental right. But such burial is to be undertaken with the authority of law and to be regulated by the competent authorities under the provisions of the relevant Act and Rules.

15. In view of the fact that contrary submissions are made between the parties and actions are initiated by the Government to identify alternate lands to provide burial ground to the people residing in the locality of Vijayachampadu, Ittamozhi and Thisayanvayal villages, a decision has to be taken by the respondents 1 to 4 by conducting field



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inspection and after making a thorough investigation, more specifically in consultation with the temple authorities and in the manner known to law.

16. With the above observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.] [A.D.M.C., J.]
02.06.2025

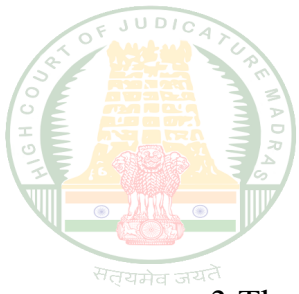
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Internet: Yes/No
NCC: Yes/No

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To

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2. The District Collector,
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3. The Tahsildar,
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S.M.SUBRAMANIAM, J.
and
DR.A.D.MARIA CLETE, J.

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