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W.P.Nos.19414, 14353 & 18565 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2026

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.Nos.19414, 14353 & 18565 of 2024

&

W.M.P.Nos.21262 to 21265, 15578, 15580,
15583 & 20354 to 20356 of 2024

W.P.No.19414 of 2024

1. Murugammal
2. V.Renganayagi
3. R.Palaniammal
4. M.Nanjan
5. Mottai
6. Karuppasamy
7. Karuppusamy

.. Petitioners

Vs.

1. State of Tamil Nadu
Rep. by its Chief Secretary
Fort St. George
Chennai - 600 009.
2. The Secretary to Government of Tamil Nadu
Home Department
Fort St. George
Chennai - 600 009.



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3. The Secretary to Government of Tamil Nadu
Adi Dravidar and Tribal Welfare Department
Fort St. George
Chennai - 600 009.
4. The Secretary to Government of Tamil Nadu
Rural Development and Panchayatraj Department
Fort St. George
Chennai - 600 009.
5. The District Collector cum
Inspector of Panchayats cum Chairman
Hill Area Conservation Authority
Coimbatore District.
6. The District Environment Engineer
Coimbatore South
Tamil Nadu Pollution Control Board
Plot No.E-55A, SIDCO Industrial Estate
Pollachi Main Road, Kurichi
Coimbatore-641 021.
7. The Assistant Director
Adi Dravidar and Tribal Welfare Department
Coimbatore District.
8. The Assistant Director of Panchayats (Rural)
Coimbatore District
Collectorate Campus
Coimbatore-641 018.
9. The District Forest Officer
Coimbatore Forest Division
Forest College Complex
Mettupalayam Road
Coimbatore-641 043.
10. The Superintending Engineer
TANGEDCO, Coimbatore North
Tatabad, Coimbatore-641 201.

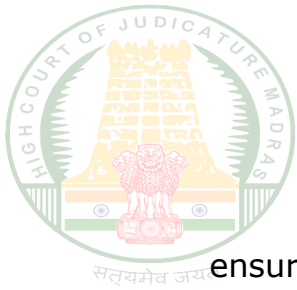


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11. The Revenue Divisional Officer
Coimbatore South
Gopalapuram, Coimbatore-641 010.
12. The Tahsildar
Perur Taluk
Coimbatore- 641 010.
13. Thondamuthur Panchayat Union
Represented by its Block Development Officer
Thondamuthur, Perur Taluk
Coimbatore District.
14. The President
Ikkarai Boluvampatti Village Panchayat
Perur Taluk, Semmedu Post
Coimbatore-641 114.
15. Isha Foundation
Rep. by its Authorized Person
Isha Yoga Center
Velliangiri Foothills
Ishana Vihar Post
Coimbatore-641 114.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus to call for the records of the impugned order issued by the 14th Respondent dated 05.04.2023 and the consequential impugned consent order No.2401156237994 dated 01.02.2024 issued by the 8th respondent and quash the same as illegal and consequently direct the removal of the constructions already made in the proposed "Isha Foundation Kalabhairavar Dhagana Mandapam" in S.F.No.1081/1C1 in the Ikkarai Poluvampatti Village, Perur Taluk, Coimbatore District and also to direct the Respondents 1 to 14 to



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ensure that no human corpse from outside Perur Taluk is brought to the existing crematoriums situated in the Villages coming under the Respondent No.13/Thondamuthur Panchayat Union to be burnt in the highly eco sensitive Boluvampatti Forest Division, in which Ikkarai Boluvampatti Village comes under Hill Area Conservation Authority (HACA) as per G.O.M.S No.44 of Planning and Development (TCII) Department dated 22.4.1990 and G.O.Ms.No.49 dated 24.03.2003 issued by the Housing and Urban Development (UD2-2) Department No.44 dated 22.4.1990 and also is a known Elephant habitat as per the Elephant Task Force, Gajah Report dated 31.08.2010 of the Union Ministry of Environment and Forest.

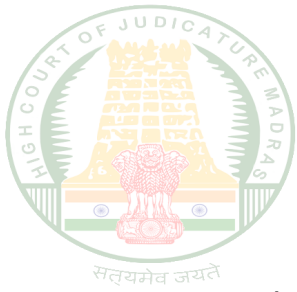
W.P.No.14353 of 2024

S.N.Subramanian

.. Petitioners

Vs.

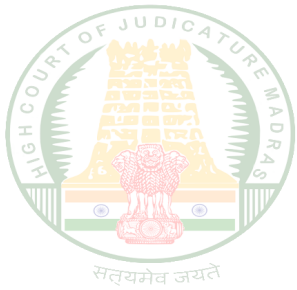
1. The District Collector Cum
Inspector of Panchayats Cum Chairman
Hill Area Conservation Authority
Coimbatore District.
2. The District Environment Engineer
Coimbatore South
Tamil Nadu Pollution Control Board
Plot No.E-55A, SIDCO Industrial Estate
Pollachi Main Road, Kurichi
Coimbatore-641 021.
3. The Assistant Director of Panchayats, (Rural)
Coimbatore District
Collectorate Campus
Coimbatore-641 018.



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4. The Block Development Officer
Thondamuthur Panchayat Union
Thondamuthur
Coimbatore District.
5. The District Forest Officer
Coimbatore Forest Division
Forest College Complex
Mettupalayam Road
Coimbatore-641 043.
6. The Revenue Divisional Officer
Coimbatore South
Gopalapuram
Coimbatore-641 010.
7. The Tahsildar
Perur Taluk
Coimbatore- 641 010.
8. The President
Ikkarai Boluvampatti Village Panchayat
Perur Taluk, Semmedu Post
Coimbatore-641 114.
9. The President
Narasipuram Village Panchayat
Narasipuram, Perur Taluk
Coimbatore-641 109.
10. The President
Jagirnaickenpalayam Village Panchayat
Jagirnaickenpalayam, Perur Taluk
Coimbatore-641 109.
11. The President
Mathuvarayapuram Village Panchayat
Mathuvarayapuram, Perur Taluk
Coimbatore-641 101.



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12.The President

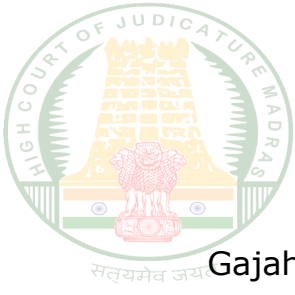
Vellimalaipattinam Village Panchayat
Vellimalaipattinam, Perur Taluk
Coimbatore-641 109.

13.Isha Foundation

Rep. by its Authorized Person
Isha Yoga Center
Velliangiri Foothills
Ishana Vihar Post
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Gajah Report dated 31.08.2010 of the Union Ministry of Environment and Forest.

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S.T. Sivagnanam

.. Petitioners

Vs.

1. The District Collector Cum
Office of the District Collector
7/1, State Bank Rd
Gopalapuram
Coimbatore District.
2. The District Environmental Engineer
Tamil Nadu Pollution Control Board
Coimbatore South
Plot No.E55A, SIDCO Industrial Estate
Pollachi Main Road, Kurichi
Coimbatore-641 021.
3. The Assistant Director of Panchayats, (Rural)
Coimbatore District
Coimbatore Collectorate Campus
Coimbatore-641 018.
4. The Block Development Officer
Thondamuthur Panchayat Union
Thondamuthur
Coimbatore District.
5. The District Forest Officer
Coimbatore Forest Division
Forest College Complex
Mettupalayam Road
Coimbatore-641 043.



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6. The Revenue Divisional Officer
Coimbatore South
Gopalapuram
Coimbatore-641 010.
7. The Tahsildar
Perur Taluk
Coimbatore- 641 010.
8. The President
Ikkarai Boluvampatti Village Panchayat
Perur Taluk, Semmedu Post
Coimbatore-641 114.
9. The President
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- 10.The President
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- 11.The President
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Mathuvarayapuram, Perur Taluk
Coimbatore-641 101.
- 12.The President
Vellimalaipattinam Village Panchayat
Vellimalaipattinam, Perur Taluk
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| | | |
|---------------------|---|---|
| WP.No.19414 OF 2024 | MR. M.PURUSHOTHAMAN | MR. E.VIJAY ANAND ADDL. GOVT. PLEADER FOR R1, R2, R11 AND R12 MR. J.RAVINDRAN ADDITIONAL ADVOCATE GENERAL ASSISTED BY MR. V.GUNASEKAR STANDING COUNSEL FOR R6 MR. R.PARTHASARATHY SENIOR COUNSEL FOR MR. A.P.BALAJI & MR. K.GOWTHAM KUMAR FOR R13 AND R15 |
| WP.No.14353 OF 2024 | MR. M.PURUSHOTHAMAN | MRS. V.YAMUNA DEVI SPECIAL GOVERNMENT PLEADER FOR R1, R3 TO R12. MR. J.RAVINDRAN ADDITIONAL ADVOCATE GENERAL ASSISTED BY MR. V.GUNASEKAR STANDING COUNSEL FOR R2 MR. SATISH PARASARAN SENIOR COUNSEL FOR MR. A.P.BALAJI & MR. K.GOWTHAM KUMAR FOR R13 |
| WP.No.18565 OF 2024 | MR. N.JOTHI SENIOR COUNSEL FOR MR. D.JAYASEKAR | MR. J.RAVINDRAN ADDITIONAL ADVOCATE GENERAL ASSISTED BY MR. V.GUNASEKAR STANDING COUNSEL FOR R2 MR. R.PARTHASARATHY SENIOR COUNSEL FOR MR. A.P.BALAJI & MR. K.GOWTHAM KUMAR FOR R13 |



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ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The only ground raised to challenge the establishment of crematorium by private respondent is that it violates Rule 7, as it could not be established within a prohibited distance of 90 meters.

2. The immediate response to this from respondent side is that this issue is no longer *res integra* and stands concluded by the Full Bench judgment of this Court in the case of ***Jagadheeswari v. B.Babu Naidu [2023 SCC Online Mad 4773]***.

3. Rule 5 of the Tamil Nadu Village Panchayats (Provision of Burial and Burning Grounds) Rules, 1999, which provides for grant of permission, reads as under:

“5.Conditions for opening of burial and burning ground.-

(1) No new place for burying or burning the dead, whether private or public, shall be opened, formed,



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constructed or used, unless a licence has been obtained from the Village Panchayat on application.

(2) Such application for a licence shall be accompanied by the plan of the place for which licence is required showing the locality, boundary and extent thereof, the name of the owner or person or community interested therein, the system of management and such further particulars as the Village Panchayat may require.”

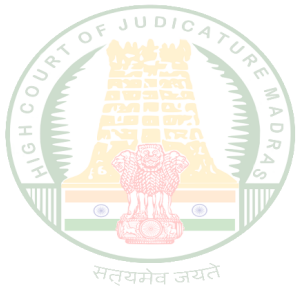
4. Rule 7 of the Rules reads as under:

“7. Place for burial and burning grounds.-

(1) No person shall bury or cause to be buried or burnt any corpse in any place within ninety metres of a dwelling place or source of drinking water-supply other than a place licenced as a burial and burning ground.

(2) The person having control of a place for burying or burning the dead shall give information of every burial or burning of a corpse at such a place to any officer appointed by the Village Panchayat for this purpose.

(3) If a Village Panchayat is satisfied-



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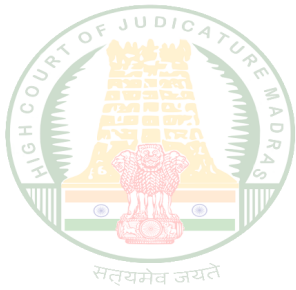
(a) that any registered or licenced place burying or burning of the dead is in such a state or situation as to be or likely to become dangerous to the health of persons living in the neighbourhood thereof; or

(b) that any burial ground is overcrowded with graves, and if in the case of a public burial or burning ground, another convenient place duly authorised for burying or burning of the dead exists or has been provided for the persons who would ordinarily make use of such place, it may with the previous sanction of the Assistant Director (Panchayats) give notice that it shall be not lawful after the expiry of a period of not less than two months to be specified such notice to bury or burn any corpse at such place.

(4) Every notice given under sub-rule (3) shall be published by affixture to the notice board of the Village Panchayat and by beat of drum in the village.

(5) No person shall in contravention of any notice under sub-rule (3) and after expiration of the period specified in such notice bury or burn or cause or permit to be buried or burnt any corpse at such place.

(6) The Inspector may cancel or modify any notice issued by a Village Panchayat under sub-rule (3).



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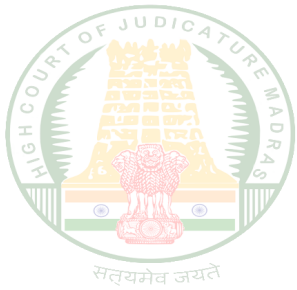
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(7) Whoever contravenes any of the provisions of these Rules shall be punishable with fine which may extend to one hundred rupees or in case of a continuing breach, with fine not exceeding fifteen rupees for every day during which the breach continues after conviction of the first breach:

Provided that no prosecution shall be instituted for contravening the provisions of sub-rule (1) of Rule 7 without the written sanction of the Executive Authority of the Village Panchayat, concerned.”

8. The Full Bench of this Court, in the case of **Jagadheeswari** (supra), had an occasion to interpret the Scheme of the Rules and the interplay between Rules 5 and 7, and it was observed as below:

“30. In Mathew vs. State of Kerala reported in 2022 SCC Online Kerala 1142, burial of body in a non-designated place came to be tested in the light of the Rules framed by the Kerala Government for burning and burying dead bodies. In that case, the District Collector issued a notice to the land owner, who had prepared a tomb for him to be buried after his death directing him to get the same registered under the Kerala Panchayat Building Rules and Kerala Panchayat Raj (Burial and Burning Grounds) Rules, 1998. The said notice



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was challenged stating that the Kerala Panchayat Raj Burial and Burning Grounds Rules, 1998 is not applicable to the case where he has constructed structure in his land which could be used as a tomb in future. The contention of the petitioner that the State cannot impose restriction on him for cremation of his own body in his own property where he is residing, was negated by the Kerala High Court stating that the Rule prohibits opening, constructing or using new burial ground without a license from the concerned District Collector.

31. When we look at Rule 7(1) of Tamil Nadu Village Panchayat (Provision of Burial and Burning Grounds) Rules 1999, we find that it is analogous to the Kerala Rules 5(i) which was interpreted the way it should be.

32. 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



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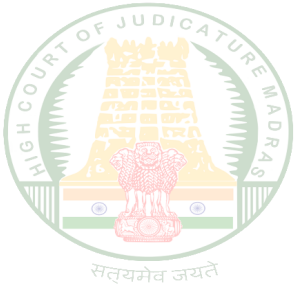


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and the land owner has no intention to allow burial of body in future. Whoever prefers a new place whether private or public to be used for burying or burning the dead, license from the Panchayat is a pre-requisite. Thus, it is very clear that except 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.”

9. It is, therefore, clear that the argument of petitioner that no permission could be granted within that distance, is no longer available to be pressed into service, as, it is against the dictum of the Full Bench decision in **Jagadheeswari** (supra).

10. All other submissions made are with regard to suitability and administrative consideration of local bodies, with which, we would not interfere, because, addition of a crematorium, that too gasifier crematorium is only to the benefit of the community and cannot be said to be against their interest.



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11. Petitions are dismissed. There shall be no order as to costs. W.M.P.No.21262 of 2024 filed by petitioners to join together and file a single writ petition is allowed as separate court fee has been filed. The other interim application are also dismissed.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (G.ARUL MURUGAN,J)
21.01.2026

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

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Fort St. George, Chennai - 600 009.
2. The Secretary to Government of Tamil Nadu
Home Department
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THE HON'BLE CHIEF JUSTICE
AND
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