



W.P.No.18930 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.07.2024

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18930 of 2024

Porkodi

... Petitioner

Vs.

1. The State Rep. by
The Principal Secretary,
Municipal Administration,
St. George Fort,
Chennai - 9.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 2.
3. The District Collector,
Chennai,
Chennai District.
4. The Tahsildar,
Perambur Revenue Circule,
Chennai - 12.
5. The Zonal Officer,
Head Office,
Greater Chennai Corporation,
Rippon Building,
Chennai - 2.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 5th respondent to consider the representation of the petitioner dated 06.07.2024 in accordance with law by permitting the petitioner to bury the body of her husband Armstrong, son of Krishnan 54 years at B.S.P. Office Perambur situated comprising Survey Number in Old Survey No.7/2, New Survey No.7/2B, Block No.13, T.S.No.7/2B, Patta C.A.No.2160/2003/2003, S.T.T.R.697/2003, dated at 09.03.2003, in Siruvallur Village, Purasawalkam Village, Chennai, to raise tomb or samathi on the said buildings to do last rights to departed leader by his followers to secure ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by
1. Mr.Edwin Prabhakar
State Government Pleader
2. Dr.J.Seenivasan For R1
Special Government Pleader
3. Mr.Muniyapparaj
Additional Public Prosecutor
4. Mrs.C.Meera Arumugam For R3
Additional Government Pleader
5. Mr.P.Gurunathan for R4
Additional Government Pleader
6. Mr.Azizulla Khan
Government Advocate
7. Mr.Habeeb Rahman
Government Advocate
8. Mr.E.C.Ramesh For R2 & R5
Standing Counsel



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ORDER

WEB COPY This Writ Petition has been filed seeking a direction, directing the 5th respondent to consider the representation of the petitioner dated 06.07.2024 in accordance with law by permitting the petitioner to bury the body of her husband Armstrong, son of Krishnan 54 years at B.S.P. Office Perambur situated comprising survey number in Old Survey No.7/2, New Survey No.7/2B, Block No.13, T.S.No.7/2B, Patta C.A.No.2160/2003/2003, S.T.T.R.697/2003, dated at 09.03.2003, in Siruvallur Village, Purasawalkam Village, Chennai, to raise tomb or samathi on the said buildings to do last rights to departed leader by his followers.

2. The case of the petitioner is that the petitioner is having one year old daughter Savithri Baai and her husband K.Armstrong is a State President of Bahujan Samaj Party. The petitioner's husband dedicated his whole life for the benefit of Dalit and Marginalised People of Tamil Nadu and nearby State like Andhra Pradesh, Karnataka and Kerala. He is a lawyer by profession and having large fairness. He was elected in Corporation Councillor during 2006 to 2011. Above all he was unquestionable President of Bahujan Samaj Party over 17 years, he has



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rendered social services to the marginalised people and was fighting for

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the cause of Dalit empowerment and also against the exploitation of mankind. Unfortunately, the petitioner's husband was murdered by Anti-Social rowdy elements on 05.07.2024 around 7 p.m. near his house. The followers of the departed leaders have become restive, they wanted to see the leader to be buried inside BSP Office and memorial would be built on the said place in order to show their respect to the departed leader in and around the area, the dalits are in one voice requested to have tomb on the body inside the office of BSP owned by her husband, the samathi would perpetuate his ideals and the followers would cherish is memorial. The people in area in one voice recognised his services and with folded hands to appeal bury the body her deceased husband inside BSP Office owned by deceased husband Armstrong situated comprising survey number in Old Survey No.7/2, New Survey No.7/2B, Block No.13, T.S.No.7/2B, Patta C.A.No.2160/2003/2003, S.T.T.R.697/2003 dated at 09.03.2003 in Siruvallur Village, Purasawalkam Village, Chennai. It will not harm anybody or public hazard or nuisance. The petitioner submitted a representation dated 06.07.2024 praying to permit her to bury the body of deceased Armstrong inside the office of BSP at Perambur and the same has been rejected by the 2nd respondent. Hence, this Writ Petition has



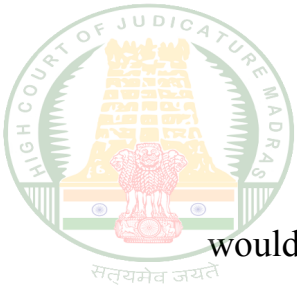
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been filed.

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3. Mr.E.Sankarasubbu, learned counsel for the petitioner submitted that the petitioner is the wife of Armstrong, State President of Bahujan Samaj Party, who was murdered on 05.07.2024 at 7.00 P.M. Initially, the said Armstrong was taken to Apollo hospital, where he was declared dead and later on, he was taken to Government Hospital, conducted postpartum. The said Armstrong, was elected as a counsellor in one term of the national party and the leaders in the said party and the leaders including the opposition party and Ms.Mayavathi, Politician are proceeding to pay tributes to the departed soul.

4. The learned counsel for the petitioner also contends that in order to pay tribute to the departed soul by various politicians / opposition leaders / public, the petitioner seeks to bury her husband in the huge vacant land / party house bearing 2700 sq.ft., and the sale deed / Schedule Item Nos.1 and 2 has been filed in the typed set of papers to show that the same stands in the name of deceased Armstrong. Further, the learned counsel also represents that already in the said place, a party office / super structure has been built and it is a residential area and they



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would demolish the said structure and would build a memorial to the departed soul in the said place.

5. Learned counsel for the petitioner further submits that a representation has been given to the respondents to consider the genuine plea of the petitioner, however, the same has been rejected by the respondents and a copy of the same has been served on them only today at 8.40a.m. That apart, when the similar case arose with regard to burial of the departed soul of Vijayakanth, Politician / Actor, the same was considered and the departed soul was buried in the place earmarked by them. The said indulgence may be shown to the petitioner's husband also.

6. On the other side, the learned Additional Advocate General submitted that the land earmarked by the petitioner is 2453 sq.ft., only and 247 Sq.ft., is meant for passage. Further, the learned Additional Advocate General has produced a Google Map to show that the road leading to the house of the petitioner is 16 feet., and narrow and the land is surrounded by common wall on both sides and there are cluster of house. Also it is a residential area and congested.



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WEB COPY 7. The learned Additional Advocate General projects a plea that just a 1 ½ Kms away from the house of the petitioner, a vacant space consisting of 240 sq.ft., in the burial ground has been earmarked to perform last rights and the petitioner may visit the place and report to this Court. With regard to the contention of burying the departed soul of Vijayakanth is concerned, it is a vast area of land measuring huge acres of land and out of that 6,800 sq.ft., was earmarked, hence the case on hand is not the same as that of Vijayakanth/ politician / actor.

8. Heard the contentions put forth by the learned counsels on either side and perused the documents placed on record.

9. On a perusal of the report submitted by the Commissioner, Greater Chennai Corporation in P.H.D.C.No./Spl/2024 dated 07.07.2024, it is seen that the representation of the petitioner is rejected on the ground that area for which the permission has been sought is a thickly populated contiguous residential area with high population density and is a primarily a residential zone, the approach road is 16 feet wide which is very narrow, the primary construction itself is about 1900 square feet and



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it is seen that additionally a part area is covered by a proper roof and does not have requisite approvals, the location sought is currently functioning as the party office of the Bahujan Samaj Party.

10. This Court, when posed a question whether there is any other vast space owned by the petitioner is available or the petitioner is agreeable to construct a manimandapam in the place shown by the corporation chennai to perform last rites to her husband, for which, the learned counsel for the petitioner sought time till 12 o clock to get instructions. Hence, the matter was passed over till 12 o clock. In the meanwhile, the learned additional advocate general was also directed to ascertain whether any other alternative space can be allotted to the petitioner to bury the body of her husband.

11. When the matter was taken up at 12.00 noon, the learned counsel for the petitioner produced a map, showing alternative place, consisting of 7000 sq.ft., owned by the kith and kin of the deceased. Upon perusing the said map, it is seen that the said 7000 sq.ft., is in the form of 'L' Shape and allotted for residential purpose. Hence, this Court



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was not convinced for burying the deceased in the said land, because this

Court is not aware of the fact whether the neighbors / residents would accept or object the same. Also, the learned additional advocate general submitted that neither this Court or him can decide the same at present and it is for the authorities to decide the same.

12. Upon hearing the submission, this Court opined that only when the land stated by the petitioner feasibly falls within the parameters fixed by the Court, the said place can be allotted for burial. Since the body is kept in a Government school and tomorrow is being a Monday and the school has to reopen, this Court advised the petitioner to bury the body in the land that has been shown by the Government for decent burial and this Court also suggested that they can bury the body in the allotted land at present and later on, if the said land which has been purchased has been approved, they can shift the body in the said land for burial.

13. At present, the learned counsel for the petitioner submitted that since permission was granted to Actor Vijayakanth to bury his body first and then order of ratification was passed, similar concession may be given to the petitioner.



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WEB COPY 14. With regard to the above submission, it was found that the said order has been issued after the burial. If at all the same to be given to the petitioner, the decision cannot be taken by this Court and it is for the Government to take appropriate decision in this regard and the petitioner has to approach the Government.

15. The learned additional advocate general was of the view that since the place shown by the petitioner seems to be a residential area, they have to verify the same and report back to this Court.

16. Since the prayer is seeking for a Mandamus to allow the petitioner to bury the body in the official premises and to construct a tomb has been rejected by the Corporation, the prayer in the Writ Petition has become infructuous. As the issue is sensitive one, this Court has suggested both the parties to work out the remedy by following procedures. This Court has also advised the petitioner to approach the Government with a fresh application seeking permission for the new place, which they have found for burying the body.



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17. Further, the learned additional advocate general submitted that some other family relatives of the deceased is willing to offer one acre of land at Tiruvallur and prima facie it appears that the said land is feasible to bury the body of the deceased, for which, the learned counsel for the petitioner sought time till 02.15 p.m to amicably sort out the matter with the learned additional advocate general. Hence, the matter was again passed over at 02.15 p.m.

18. When the matter was taken up at 2.15 P.M., the learned Additional Advocate General has submitted that one Mrs.T.V.Latha, wife of T.R.C.Venkatesh, residing at Old No.21, New No.45, Plot No.D3, Fountain Square, Medavakkam Tank Road, Opposite to E.S.I.Hospital, Perambur Baraks, Perambur Chennai, has given an application on 06.07.2024 to the Panchayat Council Chairman, Pothur Panchayat, Villivakkam Panchayat Union, according to her, she has an extent of land 40.50 ares in Survey No.145/2B and she is the relative of K.Armstrong and she prays that permission may be granted to her for laying the mortal to the said Bahujan Samaj State Leader, K.Armstrong in peace. The same was accepted by the Village President by calling for an extraordinary urgent meeting at 9.00 a.m., today, (07.07.2024) morning



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and they have also passed an appropriate resolution in the agenda and the

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said members have also signed in the said resolution, wherein they have given permission for resting the said person in peace at Survey No.145/2B and accordingly, they have also converted the same into a burial place, as per G.O.Ms.No.213 Rural Development (C4) dated 05.10.1999, this has been classified as Ryotwari Punjai, which is situated within 90 mts and there cannot be any residential area. Only few persons are residing in the said area and they are not objecting for laying the mortal in the said extent of land. Further, they have also sent a proposal to the District collector, subsequently, the District Collector, Thiruvallur has passed a proceedings in Na.Ka.No.1056/2024/M1 dated 07.07.2024 in which, they have forwarded the said resolution to the Government for converting the said land from Ryotwari Punjai land for burial and appropriate mutation to be taken place in the revenue records.

19. As the Government has issued appropriate sanction for converting the said land into the place for burial, which is in accordance with law and mortal will be laid in rest in the said place.

20. At this juncture, the learned counsel for the petitioner would



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seek a prayer that in case if they are getting a place in Chennai limit, they may be permitted to raise memorial such as hospital, educational institution etc.

21. In view of the above, this Writ Petition is disposed of with the following directions:

(i) If the petitioner intends to construct a memorial / manimandapam, hospital, school etc., in the land owned by them, in the name of the deceased Mr.Armstrong in and around chennai, they can approach the Government by submitting a representation with supporting documents along with necessary proposal to the Government and the same shall be considered by the Government by passing appropriate orders in accordance with law in future.

(ii) All the persons concerned, who are related to this issue can co-operate with the government in continuing the procession in a peaceful manner. The Police Department is directed to give appropriate police protection for the said procession, which is about 20 kms from the said place to the burial place.



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WEB COPY (iii) It is left open to the petitioner to approach the Government to redress any other grievance.

07.07.2024

ssd/raja

Index : yes/no

Internet : yes/no

Speaking Order / Non-Speaking Order

Note : Issue order copy on 07.07.2024

To

1. The Principal Secretary,
Municipal Administration,
St. George Fort,
Chennai - 9.
2. The Commissioner,
Greater Chennai Corporation,
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3. The District Collector,
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5. The Zonal Officer,
Head Office,
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6. The District Collector,
Tiruvallur.

V.BHAVANI SUBBAROYAN, J.

ssd/raja

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