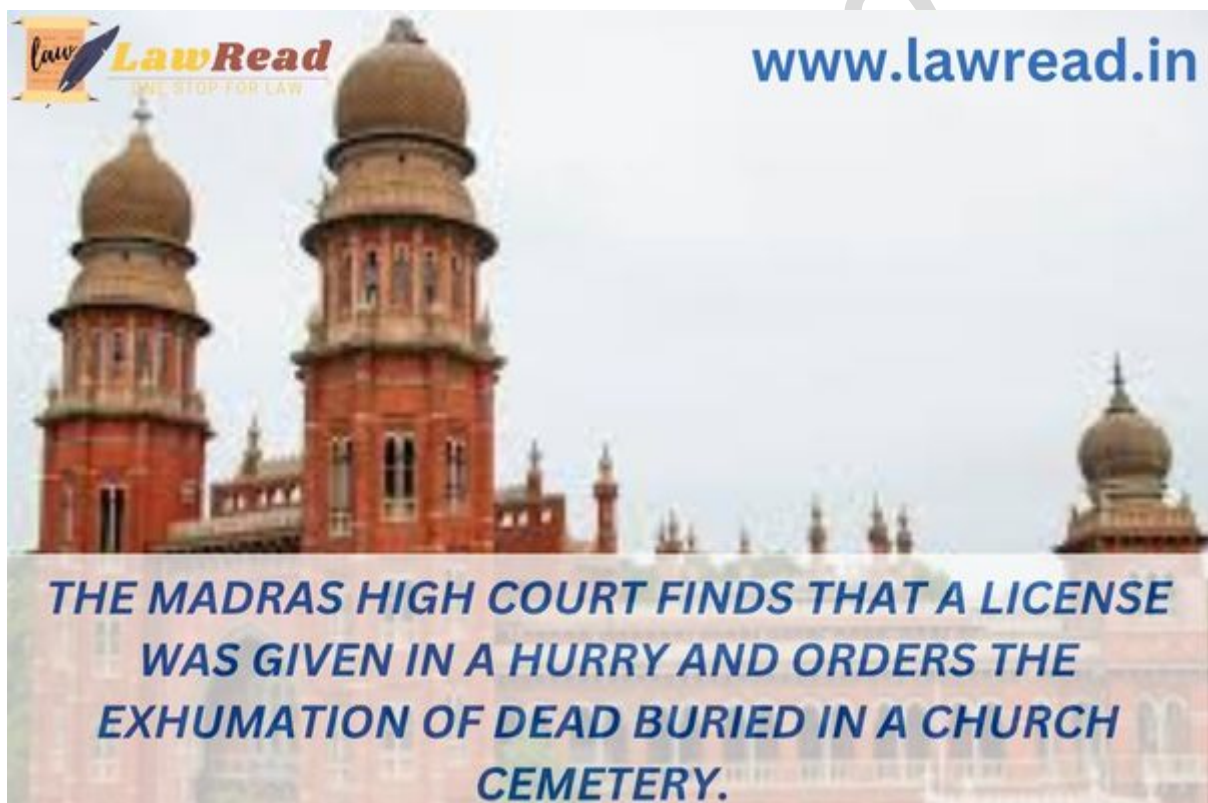


News

The Madras High Court finds that a license was given in a hurry and orders the exhumation of dead buried in a church cemetery.



The court determined that the burial license was provided by the Greater Chennai Corporation in breach of statutory legislation and with excessive haste.

In *Stellar Developer v. The Commissioner, Greater Chennai Corporation and ors*, the Madras High Court recently ordered the exhumation of bodies buried at a private plot attached to a Christian church after concluding that the burial license was granted in excessive haste and

in violation of certain legal requirements.

The landlord of the ground, S Albert Kings Bell, a member of a CSI Church, was told by Justice N Mala to either make sure the bodies were exhumed himself or pay for the State authorities to do so.

"The bodies must be exhumed by the fifth respondent (S Albert Kings Bell/Church's representative); if this is not possible, the exhumation and burial will be carried out by respondents 1 and 2 (Greater Chennai Corporation and its Deputy Director of Health) with assistance from the fourth respondent (Police). If the official respondents carry out the exhumation and burial, the fifth respondent will be responsible for the expenses. The November 3 verdict stated that the full exercise must be finished within twelve weeks of receiving a copy of this order.

After a developer of a neighboring residential housing project filed a petition contesting the issuance of a burial license for the S Albert Kings Bell's plot, which was located close to the housing project, the Court issued the order.

Stellar Developer, the petitioner, contended that burial operations had begun on the property prior to the licence being granted in February 2024.

The Court observed that the case included two conflicting interests: the dignified burial of the deceased and the preservation of the housing project's occupants' living conditions.

"In a context where a land itself is scarce, this Court is called upon to reconcile these conflicting claims, mindful that the guarantee of dignity under Article 21 extends beyond life," said Justice Mala.

The landowner of the focal site acknowledged that burials had started on the plot shortly after the relevant Tashiladr issued a no-objection certificate in February 2021.

The landowner further informed the court that the Church of South India Trust Association had purchased the area in 2018 with the express purpose of establishing a burial ground because the church's current burial grounds were at capacity.

In December 2024, the High Court issued an interim order prohibiting the graves.

In its ultimate decision, the Court ordered the exhumation of bodies already interred at the location in addition to overturning the burial permit granted to the church's representatives in 2024.

The High Court's ruling in Jagadheeshwari & Ors v. B. Babu Naidu & ors was also cited by Justice Mala to reaffirm that the dead cannot be buried anywhere other than approved locations.

In this instance, the Court noted that the burial license was granted in violation of the Tamil Nadu Combined Development Building Rules, 2019 (TNCDBR), which limit the number of burial plots allowed in each geographical subdivision.

Additionally, the Court determined that the Greater Chennai Corporation (GCC) had granted the burial license in an excessive amount of haste, perhaps in order to assist the church in avoiding some regulations that would have been introduced under the Tamil Nadu Urban Local Bodies Act, 1998.

The church's argument that the petitioner was not qualified to file the current action since it was merely a land developer and not a landowner was also rejected by the court.

"The petitioner's business will be impacted by the burial site next to his project. The Court stated, "It cannot be said that the petitioner is neither aggrieved nor has the locus standi to file the writ petition."

However, the Court also stated that representatives of the church may later request a new burial license.

"After the government approves the rules, the fifth respondent is free to submit a new application. The Court stated, "The first respondent shall consider such an application, strictly in accordance with the statutory provisions, Rules, and guidelines issued."

The petitioner-developer was represented by Advocate G Revathy, who was briefed by Mothilal and Goda Advocates.

The GCC and its Deputy Director of Public Health were represented by Additional Advocate General Ramanlal, with assistance from Standing Counsel S Vanitha Joice Rani.

The Chennai Metropolitan Development Authority was represented by standing counsel K Mageswari.

J Subbiah, a government advocate on the criminal side, represented the police.

S Albert Kings Bell was defended by Senior Advocate P Wilson under the guidance of Advocate Dineshkumar.

Lawread