

Ms Chinnamma vs State of Karnataka

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Court : Karnataka

Decided On : Aug-19-2025

Judge : R Devdas

Appeal No. : WP/24236/2025

Appellant : Ms Chinnamma

Respondent : State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2025 BEFORE THE HON'BLE MR. JUSTICE R DEVDAS WRIT PETITION NO. 24236 OF 2025 (KLR-RES) BETWEEN: MS CHINNAMMA W/O LATE FRANCIS (CLAIMING SENIOR CITIZEN) AGED ABOUT 80 YRS CHERUVALLIL AMBALLOOR, AMBALLUR, ERNAKULAM, AMBALLUR, KERALA-682315 PETITIONER (BY SRI. S. VIDYA, ADVOCATE)

Digitally signed by AND: JUANITA THEJESWINI Location: HIGH COURT OF 1. STATE OF KARNATAKA KARNATAKA REP BY ITS CHIEF SECRETARY 2ND FLOOR VIKASA SOUDHA, DR. B.R. AMBEDKAR VEEDI, BENGALURU - 560

2. THE DEPUTY COMMISSIONER BENGALURU URBAN KEMPEGOWDA ROAD, BEHIND KANDAYA BHAVANA, BENGALURU URBAN DISTRICT BENGALURU - 560 009 -2-

3. THE ASSISTANT COMMISSIONER BANGALORE NORTH SUB DIVISION NO.200(N), 2ND FLOOR, KEMPEGOWDA ROAD, KANDAYA BHAVANA, BENGALURU URBAN DISTRICT BENGALURU - 560 009

4. THE TAHSILDAR BENGALURU EAST TALUK DIESEL LOCO SHED ROAD, DURAVANI NAGAR, KRISHNARAJAPURA, BENGALURU - 560 036
RESPONDENTS

(BY SRI. SESHU V., HCGP) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE AN ORDER, DIRECTION OR WRIT IN A NATURE OF MANDAMUS TO RESPONDENT NO.2 TO GRANT PERMISSION TO EXHUME THE MORTAL REMAINS OF LATE FRANCIS AND TAKE IT TO CHERUVALLIL AMBALLUR, ERNAKULAM KERALA FOR THE RE- BURIAL OF HIS MORTAL REMAINS AS PER REPRESENTATION MADE BY THE PETITIONER NO.1 VIDE ANNEXURE A DATED 04.07.2025 AND ETC. THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER: -3- CORAM: HON'BLE MR. JUSTICE R DEVDAS

ORAL ORDER

Learned High Court Government Pleader takes notice for all the respondents.

2. Learned counsel for the petitioner ms. Arathi B.

submits that the petitioner's husband, Mr.Francis, was in Bengaluru for treatment of heart disease. However, due to COVID-19, the petitioners husband expired at St.Johns Hospital on 03.08.2020 on account of pneumonia and multi-organ failure. The death certificate is at Annexure-B. A Death Certificate at Annexure-B issued by the St.John's Medical College Hospital would evidence the fact that Mr.Francis

died of severe COVID Pneumonia with Multi- organ Dysfunction Syndrome. In terms of the Standard Operating Procedure issued by the Government, the dead body of Mr.Francis was buried without any rituals and in the absence of the petitioner and the close relatives of Mr.Francis. The prayer in the writ petition is to grant permission to the petitioner and to issue directions to the -4- respondent No.2-Deputy Commissioner, Bangalore Urban District, to exhume the mortal remains of late Mr.Francis and permit the same to be taken to the native place of Mr.Francis, namely, Cheruvallil Amballur, Ernakulam, Kerala for re-burial of the mortal remains. In order to enable the grant of the prayer made in the petition, learned counsel for the petitioner seeks to place reliance on a decision of the Co-ordinate Bench in the case of Ms.Merlyn Mirabel Rozario and Another Vs. State of Karnataka and Others in W.P.No.17886/2024 dated 22.11.2024.

3. This Court has perused the orders passed by

the Co-ordinate Bench, which has taken into consideration a judgment of the Apex Court in the case of Mohammad Latief Magrey Vs. Union Territory of Jammu and Kashmir and Others, reported in 2022 SCC Online SC

1203. The Hon'ble Supreme Court had noticed that except

for the provisions under Section 176(3) of the Cr.P.C, which grants certain powers to a Magistrate in cases -5- requiring an inquest, there are no other provisions or specific legislation on exhumation. The Apex Court had taken note of the legislations of various other countries which provided for such exhumation and in fact, based on the statute governing exhumation in Ireland, the Apex Court recommended to the Union of India to consider enacting appropriate legislation on exhumation to address situations such as the one at hand. Nevertheless, the Co-ordinate Bench has held that in the present case evidence has been placed on record showing that the burial became necessary on account of the COVID-19 pandemic and the related travel restrictions and the SOPs issued by the Government.

4. Having regard to a similar situation, the

Coordinate Bench allowed the petition while directing the Deputy Commissioner to grant permission to the petitioner to exhume the mortal remains. Learned counsel prays for similar orders. -6-

5. Having regard to the orders passed by the Coordinate Bench and the grounds of parity, this Court proceeds to pass the following:

ORDER

i) The petition is disposed of.

ii) Respondent No.2 is hereby directed to grant permission to the petitioner to exhume the mortal remains of Mr.Francis, the husband of the petitioner, in the presence of the concerned officials and a representative of the Church, at the petitioner's expense. Respondent No.2 shall issue the necessary permission within two weeks from the date of receipt of a copy of this order.

iii) Upon exhumation, the petitioner shall transport the mortal remains of her husband to Amballoor, Ernakulam District, Kerala for the performance of the last religious rites and reburial at St. Francis Assisi Church. Sd/- (R DEVDAS) JUDGE
rv

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