

Neutral Citation Number: [2021] ECC Swk 1

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK
IN THE MATTER OF MITCHAM ROAD CEMETERY, CROYDON
AND IN THE MATTER OF A PETITION BY ELIZABETH DE SAA

JUDGMENT

1. This is the petition of Elizabeth De Saa, who is a daughter-in-law of Louis and Merita De Saa.
2. Louis De Saa died in 1974 and was buried in Mitcham Road Cemetery, Croydon. His widow, Merita, bought a double depth plot in the consecrated part of the Cemetery with the intention that in due course she should be buried there with her husband.
3. In 2002, Cedric, the son of Louis and Merita, died tragically. Merita¹ would have liked his body to have been buried with Louis but this of course was impossible if she herself was to be buried there in due time. Accordingly the arrangement she made was that Cedric's body should be cremated and his ashes interred in the grave. This was on the basis that upon her death it would be possible her body to be interred in the double grave with that of her husband. I imagine that that would have been possible and indeed I am told that the undertakers then engaged knew that this was the basis on which Merita was proceeding. However that may be, the necessary arrangement could not or did not happen.
4. Merita died recently. The children of Louis and Merita have now discovered that the position of the ashes within the grave obstructs the burial of Merita's remains. Accordingly they now seek permission for the temporary exhumation of Cedric's ashes; they will be returned to grave immediately after Merita's burial.
5. Permanence is the norm of Christian burial and permission for exhumation is granted only exceptionally. However this is a case where a mistake has occurred through no fault of the Petitioner or her family; I note moreover that Cedric's ashes are to be removed only temporarily before being returned to the same grave from which they are to be exhumed. I rather doubt in these circumstances if the rigour of the inhibition on exhumation has application. If exceptional circumstances are required, I hold that they exist and accordingly I direct that a faculty should issue.
6. I appreciate that the uncertainty and the need to apply for a faculty will have added to the pressures on Merita's family at a difficult time. I extend to them my sympathy. I am grateful to everyone involved for enabling this matter to be resolved speedily.

PHILIP PETCHEY
Chancellor
13 May 2021

¹ I use Christian names hereafter for clarity; I intend no discourtesy thereby.