

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2015

CORAM

THE HON'BLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.17208 of 2015

and

M.P.No.1 of 2015

and MP.2 of 2015

M.Palanisamy

.. Petitioner

Vs.

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Commissioner,
Coimbatore Corporation,
Coimbatore.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 9.6.2015 and to direct the second respondent to remove the public toilet which is constructed on the road and nearby the petitioner's house within a time frame fixed by this Court.

For Petitioner .. Mr.C.Veeraraghavan
For 1st Respondent .. Mr.D.Krishnakumar
Spl.Govt.Pleader

For 2nd Respondent .. Mr.P.Tamilmani
Standing Counsel

ORDER

The petitioner is residing at Gnanapuram, Kuniyamuthoor Post, Coimbatore by making construction in his plot, which is comprised in S.F.No.160/1A3. There are about 82 Adi Dravidar Families residing in that area. For their benefit, a public toilet was planned to be constructed in Survey No.161/1 and 161/2. In view of the judgment and decree dated 12.02.2004 passed in O.S.No.1307 of 2001 by the Principal District Munsif, Coimbatore restraining the respondents from constructing the toilet in the said suit survey numbers, the

present survey number, namely, 160/1A3 has been chosen to construct the public toilet.

2. The case of the petitioner is that he is residing next to the proposed construction and it will cause health hazards and therefore, he has given a representation dated 9.6.2015 to remove the toilet which is being constructed near the petitioner's house.

3. Heard Mr.C.Veeraraghavan, learned counsel appearing for the petitioner as well as Mr.D.Krishnakumar, learned Special Government Pleader appearing for the first respondent and Mr.P.Tamilmani, learned Standing Counsel for the second respondent.

4. The petitioner admits that no construction is being made in his property and it is being made only in the adjacent property that too for the benefit of about 82 families who are residing in the same area. Merely because the petitioner does not like construction of the public toilet on the apprehension that it may cause health hazard, it cannot be a ground neither to shift the toilet nor discontinue the construction. If at all any direction can be, it will be that the respondents shall keep the toilet clean without causing any health hazard. Moreover, public interest is paramount than the private interest. Even there is no infringement of right of the petitioner as the petitioner's property has not been encroached. Only the public property alone is being used for construction of toilet for the benefit of public. Therefore, the relief sought for by the petitioner cannot be granted.

5. In the result, the Writ Petition is dismissed with a direction to the respondents to keep the toilet clean so that it does not cause any health hazards to the public in that area. The connected Miscellaneous Petitions are closed. No costs.

-s/d-

Assistant Registrar (CSIII)

dt:10/09/2015

True Copy

Sub-Assistant Registrar

asvm

To

1.The District Collector,
Coimbatore District,
Coimbatore

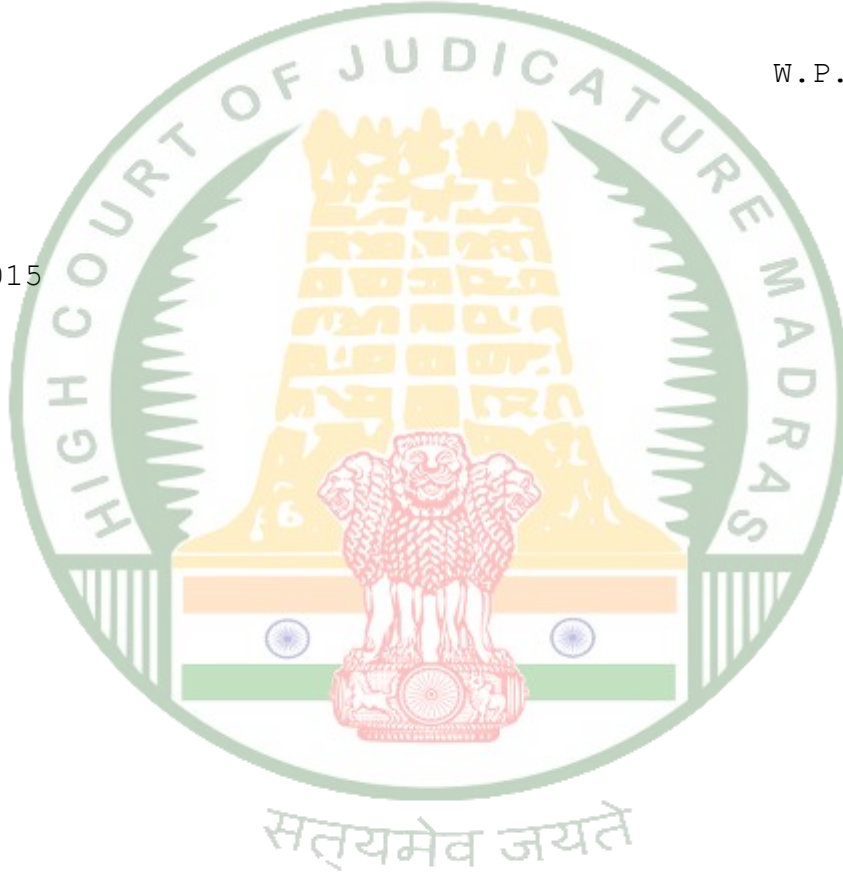
2.The Commissioner,
Coimbatore Corporation,
Coimbatore.

+1 cc to Mr.C.Veeraraghavan, Advocate sr43614

+1 cc to Mr.D.Krishnakumar, Advocate sr.44015

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