

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2015

CORAM:

THE HON'BLE MR.JUSTICE N. KIRUBAKARAN

W.P.No. 18088 of 2015

and

M.P. No. 1 of 2015

K. Durairaj

... Petitioner

Vs.

1 The District Collector
Erode District.

2 The Commissioner
Erode Corporation
Erode District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, forbearing the respondents, their subordinate, men and agents from either constructing the public toilet in the common lane situated in between the Ganapathipuram Road and Krishnampalayam Road, Karungalpalayam, Erode District or from disturbing the enjoyment of the same by the adjacent owners and consequently to remove the superstructure made in that place by this time and pass further orders.

For Petitioner : Mr. K. Sudhakar
for M/s. I.C. Vasudevan
For Respondents : Mr. V. Jayaprakash Narayanan
Spl. Govt. Pleader for R1
Mr. M. Raja Mathivanan for R2

O R D E R

The petitioner is residing at No.31, Ganapathipuram, Karungalpalayam, Erode District. Adjacent to the petitioner's house there is a small lane measuring about 6 feet width, behind his property. It is stated that the piece of land was used as an open defecating place by the trespassers and certain illegal activities are also carried on by the outsiders. Therefore, the petitioner made a representation to the respondents to make the land clean and put up a gate at the entrance of the land.

2. Based on the representation, the second respondent started putting up a toilet in that small area. Since the same would affect the health of the adjacent residents and make the area unfit for living, the petitioner objected to the same and submitted a

representation dated 12.06.2015, prohibiting the second respondent from constructing the public toilet. However, the second respondent proceeded with the construction of toilet. Hence, the petitioner has approached this Court seeking to forbear the respondents from constructing the public toilet in the common lane and consequently to remove the superstructure made in that place by this time.

3. Heard learned counsel for the petitioner and learned counsel for the first and second respondents.

4. The photographs produced by the petitioner would show that the disputed property is a bit of land, which looks like a lane and on the middle of the property a toilet is sought to be constructed. The construction has come up to the ground level. It is only a residential area where all the residents have got a toilet in their house. It is neither a public place nor a people throng. Therefore, it is not necessary to construct a public toilet in that area. Further, it will not be maintained properly by the Corporation, which will lead to commission of illegal activities. Therefore, the respondents are prohibited from constructing a toilet or put up any other construction. If at all, the second respondent can convert the place as a Park and keep it under lock and key, so that the trespassers will not enter and cause unnecessary trouble to the residents of that area.

5. With the above observation, the Writ Petition is allowed. Consequently, the connected M.P is closed. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

avr

To

1 The District Collector
Erode District.

2 The Commissioner
Erode Corporation
Erode District.

1 cc to Government Pleader.Sr.No.47075

1 cc to Mr.I.C. Vasudevan , Advocate Sr.No.47075

1 cc to Mr. M. Raja Mathivanan, Advocate Sr.No.47203

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