

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 6.7.2016

Coram:

The Honourable Mr.Justice N.KIRUBAKARAN

W.P.No. 23532 of 2016 and WMP.No.20155 of 2016

Mr.Herain G.Karnavat

..Petitioner

Versus

1. The Commissioner,
Thiruvallur Municipality,
Thiruvallur, Thiruvallur District,
Pin-602 001.

2. The District Collector,
Thiruvallur District,
Thiruvallur- 602 001.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus directing the Respondents to stop the construction of the Public Toilet at Jai Nagar, Thiruvallur, comprised in the Park site at Survey Number 582/8 at Pungathur Village, Thiruvallur Taluk and District and direct the respondents to construct the Public Toilet at the places where the Economically Weaker Section People are residing.

For Petitioner .. Mr.Rajan Babu for
M/s. Raj and Rajan

For Respondent-1 .. Mr.RM.Muthukumar, G.A. for R1.

For Respondent-2 .. Mr.V.Jayaprakash Narayanan, Spl.G.P.

ORDER

The petitioner is the owner of the vacant land admeasuring to an extent of 1650 square feet, comprised in Survey Number 582/8, Pungathur Village, Thiruvallur Taluk, having purchased the same through a sale deed Document No.1529 of 2007 dated 13.4.2007 along with his son. Opposite to the petitioner's vacant land, lies a vacant site which is earmarked for Park at Jai Nagar. The grievance of the petitioner is that in the place which is earmarked for Park namely Jai Nagar Park, the local authorities are going to construct a Public Toilet and this is being objected by the petitioner stating that there is no

necessity for constitution of a Public Toilet in the place reserved for Park. Moreover, the area reserved for Park should be used for the purpose of Park only. Hence, the petitioner has come before this Court seeking a writ of mandamus directing the Respondents to stop the construction of the Public Toilet at Jai Nagar, Thiruvallur, comprised in the Park site at Survey Number 582/8 at Pungathur Village, Thiruvallur Taluk.

2. Heard Mr.Rajan Babu, learned counsel appearing for the petitioner, Mr.RM.Muthukumar, learned Government Advocate takes notice on behalf of the first Respondent and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader takes notice on behalf of the second Respondent.

3. A perusal of the photographs produced by the petitioner would show that the petitioner's land lies vacant and in the opposite at Jai Nagar, there is a vacant place comprised in the Park site. In the said Park a Public Toilet is sought to be constructed by the local authorities only for the purpose of public. In fact, construction of toilet has already been commenced and walls have already come up. The grievance of the petitioner that there is no necessity for a Public Toilet in that area as all the houses are constructed with toilet. That reason is hardly a reason for the simple reason that the Park should have a toilet for the visitors of the Park. It is an amenity building exercise that cannot be stopped. The amenity is not confined to any particular property or party and all the mean for the public.

4. Moreover, the grievance of the petitioner seems to be that merely because the toilet is going to be located opposite to his land, the toilet should not be located opposite to his vacant site, it cannot be termed as infringement of right. The apprehension of the petitioner is that if the toilet is constructed in the Park which lies opposite to his property, there will be health hazardous. In fact, in between the Park and the petitioner's property, a 30 feet road lies and therefore, there cannot be any apprehension on the part of the petitioner and even if there is an apprehension it is unwarranted. The Respondents have already taken steps to put up construction of the Public Toilet at the Public Park for public interest and that there is no statutory right available to the petitioner to maintain the writ petition, especially for a mandamus. Hence, the writ petition is dismissed. No costs. Consequently, WMP.No.20155 of 2016 is also dismissed.

5. However, it is made clear that after construction of the toilet at the Public Park at Jai Nagar, Thiruvallur, the authorities namely the Respondents should maintain the toilet promptly without causing any health hazardous to the surrounding public.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gr.

To

1. The Commissioner, Thiruvallur Municipality, Thiruvallur, Thiruvallur District, Pin-602 001.
2. The District Collector, Thiruvallur District, Thiruvallur- 602 001.

+1cc to M/s. Raji & Rajan, Advocate, S.R.No.38126

+1cc to the Government Pleader, S.R.No.38277

KGK(CO)

EU(04/08/2016)

W.P.No. 23532 of 2016

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