

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.21634 of 2018
and
WMP No.25383 of 2018

P.Radhakrishnan ...Petitioner

vs.

1. The State of Tamilnadu,
Rep. by its Secretary,
Public Works Department,
Fort St. George, Chennai - 9.

2. The District Collector,
Collectorate,
Tirupur District - 641 601.

3. The Block Development Officer,
Udumalaipettai - 642 126.

4. Mr.Sentilkumar ...Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, forbearing the 1 to 3 respondents their men, agents or anyone acting on their behalf from proceeding with the construction of the public convenience facility near P.A.P.133 B-1-B Channel in Deepalapatty Village Panchayat, Udumalaipettai Taluk, Tiruppur District from out of the amount sanctioned under the Member of Parliament Welfare Fund for the said Constituency.

For Petitioner : Ms.S.Kala

For Respondents: Mr.T.N.Rajagopalan (for R1 & R2)
Government Pleader
Mr.S.Kamalesh Kannan (for R3)
Government Advocate

ORDER

(Order of the Court was made by SUBRAMONIUM PRASAD, J)

The instant writ petition has been filed in public interest and it is directed to restrain respondents 1 to 3, from proceeding with the construction of the public

convenience facility near P.A.P.133 B-1-B Channel, in Deepalapatty Village Panchayat, Udumalaipettai Taluk, Tiruppur District.

2. It is contended by the writ petitioner that the public convenience, which is now being constructed is near a channel and that permitting such construction, would result in sewage being let into the channel, which is the available water resource in the area.

3. Notice was issued and the Government was directed to file their response.

4. An affidavit had been filed by the State Government contending as under:

"7. It is submitted that there exists no channel or canal just adjacent to the impugned construction. Hence there is no chance of outlet from the said facility to the P.A.P. 133 P-1-P Channel. It is submitted that almost importance and precaution is taken in such a way that no effluent from the facility mixes with the existing P.A.P. 133 P-1-P Channel. Further only with a malafide intention the petitioner herein had filed the present writ petition objecting the public convenience facility which is being constructed for the farmers of the area.

8. It is necessary to stat that the petitioner herein had represented his grievance against the impugned construction to the 2nd respondent by his representation dated 29.06.2018. The same was answered by the respondent on 04.07.2018 in Na.Ka.No.87/2018/A3 stating that it is not feasible to change the location. It is submitted that the said location is selected after consideration the other available sites and also considering the convenience of the farmers.

9. It is submitted that the construction of the said Public convenience facility is for the welfare of the farmers of the Deepalapatti Village and the same is done with all necessary sanctions from the respective authorities. The sketch shall show that the septic tank is being constructed only on the landward side of the construction which is more than 25 meters from the nearest water body. It is further submitted that the said construction is almost halfway and the same shall no way affect the ecology of the area as the same is not a polluting industry, and is being constructed only for the use of the farmers of the said area."

5. A perusal of the counter would show that all necessary sanctions have been obtained by the Government, before tenders were floated, for construction of the public convenience. It

is inconceivable that a resident of the very same area, does not know that there is no possibility of the sewerage being let into the channel, as the public convenience is not adjacent to the channel or canal. This Public Interest Litigation only seems to be an obstructive approach to the efforts being taken in the area which is for the development of the area and to ensure good hygiene and ecology. This is a completely frivolous Public Interest Litigation, which is ought to be deprecated. The Public Interest Litigation, is dismissed with costs of Rs.5,000/- [Rupees Five Thousand Only], to be paid by the petitioner, to the Block Development Officer, Udumalaipettai, the 3rd respondent herein, within a period of three weeks from the date of receipt of a copy of this order, failing which, the District Collector, Tirupur District, to initiate action. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
State of Tamilnadu,
Public Works Department,
Fort St. George, Chennai - 9.

2. The District Collector,
Collectorate,
Tirupur District - 641 601.

3. The Block Development Officer,
Udumalaipettai - 642 126.

+ 1 cc to Ms. S. Kala, Advocate Sr.58760
+ 1 cc to MR. Government Pleader Sr.59276

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RK(CO)
EU(18/09/2018)