

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM:

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

WP.No.5179 of 2019
and
WMP No.5891 of 2019

S.Sekar

... Petitioner

vs.

1. The District Collector,
Office of the District Collector,
Namakkal District,
Namakkal.

2. The Director,
Directorate of Town Panchayat,
Kuralagam,
Chennai - 600 108.

3. The Special Officer,
Mohanur Town Panchayat,
Mohanur Taluk,
Namakkal District.

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, directing the respondents to consider petitioner representation dated 28.01.2019 and further directing the respondents not to construct public toilet for men in Survey No.578/1, 9th ward, Mettu Street, Mohanur, by encroaching the public road.

For Petitioner : Mr.S.Senthil

For Respondents: Mr.Akhil Akbarali (for R1& R2)
Government Advocate.

Mr.V.Jayaprakash Narayanan (for R3)
Government Pleader (i/c).

ORDER

(Order of the Court was made by S.MANIKUMAR, J)

Construction of a public toilet for men in S.No.578/1, 9th Ward, Mettu Street, Mohanur Gramantham, classified as Sarkar Poramboke (Santhu), is opposed by the villagers of Mohanur Village, Namakkal District and in this regard, petitioner and other residents of Mohanur Village, have submitted a representation dated 28.01.2019 to the District Collector, Namakkal District and the Director of Town Panchayat, Chennai, respondents 1 and 2 respectively.

2. Contending further that the said representation has not been considered, instant writ petition has been filed for a writ of mandamus directing the respondents to consider the representation dated 28.01.2019 and pass further orders.

3. On the above averments, Mr.S.Senthil, learned counsel for the petitioner submitted that construction of public toilet for men in the abovesaid survey number would lead to obstruction of the pathway of the general public.

4. Learned counsel for the petitioner also invited the attention of this Court to the photographs filed in the additional typed set of papers and further contended that the construction on the western side of the road / street, would be extended further.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. Photographs produced shows that construction is partly completed. Street is far away from construction. Contention of the petitioner that there would be further construction on the western side obstructing the ingress and egress of the public and that it would cause inconvenience, is not acceptable. No material has been placed before this Court that construction of public toilet cannot be made in a street.

7. Public toilets are absolutely essential for maintaining standards of hygiene and preventing defecation in streets, pavements and vacant areas. Entry 6 of Twelfth Schedule of the Constitution of India, deals with Public Health and Sanitation. Entry 17 of the said schedule deals with Public Amenities including public convenience. As per Section 110(e) of the Tamilnadu Panchayat Act, 1994, it shall be the duty of the village panchayat within the limits of its funds to make a reasonable provision for carrying out the requirements of

the village panchayat, in respect of providing public latrines and arrangements to cleanse latrines whether public or private. Construction of a public toilet is to maintain public health and it cannot be said to be against public interest. On the contra, it is in Public Interest. In the absence of any legal impediment, it is for the government to decide where the public convenience be erected.

8. In the light of the above discussion, we are not inclined to issue any mandamus, as prayed for. Hence, writ petition is dismissed. No costs. Consequently the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS vi)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
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Namakkal.

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3. The Special Officer,
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Mohanur Taluk,
Namakkal District.

+1cc to Mr.V.Jayaprakash Narayanan, Advocate SR.No. 20052

+1cc to Mr. S.Senthil, Advocate SR.No. 20625

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A.SK(03/04/2019)