



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

W.P. (MD)No.2280 of 2019

and

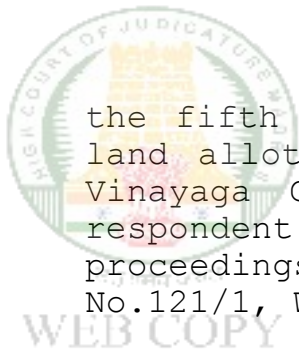
W.M.P. (MD)Nos.1791 and 6556 of 2019

S.Chella Pandian : Petitioner
Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Municipal Administration
and Water Supply, Fort St. George,
Chennai-600 009.
- 2.The Commissioner of Municipal Administration,
6th Floor, Ezhilagam Annex Building,
Kamarajar Promenade, Triplicane,
Chennai-600 005.
- 3.The Deputy Director of Town and Country Planning,
Madurai Region, 4, Hakkim Ajmalkhan Road,
Chinnachokkikulam-625 002,
Madurai District.
- 4.The District Collector,
Virudhunagar District,
No.23, Master Plan Area,
Sathur Road-626 002,
Virudhunagar District.
- 5.The Commissioner,
Aruppukottai Municipality,
Aruppukottai - 626 101,
Virudhunagar District.
- 6.The Assistant Environment Engineer,
Tamil Nadu Pollution Control Board,
No.23, Master Plan Area,
Sathur Road, Collectorate,
Virudhunagar District - 626 002. : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Prohibition, restraining

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the fifth respondent from setting up Micro Composite Plant in the land allotted for Children Park and Overhead Water Tank in "Sree Vinayaga Garden" forming part of Layout approved by the third respondent Deputy Director of Town and Country Planning vide proceedings in Na.U.Thu.E(44) No.6/02, dated 26.12.2002 at Survey No.121/1, Ward C, Block-25, T.S.No.7/3 of Aruppukottai Village.

For Petitioner	: Mr.M.J.Shabu Jose, For M/s.Isaac Chambers
For Respondents 1to4	: Mr.J.Gunaseelan Muthiah, Additional Government Pleader
For Respondent No.5	: Mr.N.Dilip Kumar
For Respondent No.6	: Mr.V.Vasanthakumar

ORDER

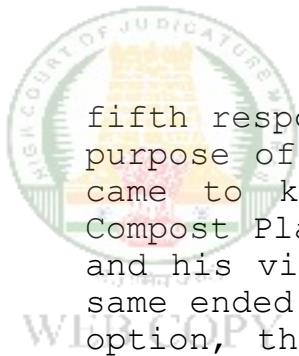
The present Writ Petition has been filed seeking issuance of a Writ of Prohibition, to restrain the fifth respondent from setting up Micro Composite Plant in the land allotted for Children Park and Overhead Water Tank in "Sree Vinayaga Garden" forming part of Layout approved by the third respondent/Deputy Director of Town and Country Planning, vide proceedings in Na.U.Thu.E(44) No.6/02, dated 26.12.2002 at Survey No.121/1, Ward C, Block-25, T.S.No.7/3 of Aruppukottai Village.

2. The case of the petitioner, in brief, is as follows:

2.1. Originally, the land in question belongs to Sree Veereswariamman Temple, Aruppukkottai. The Committee members of the Temple resolved to sell the land having a total extent of 2.68 Acres for the purpose of development and maintenance of the Temple. Thus, the Temple Authority executed a general power of attorney to alienate the property, to the Treasurer of the Temple, namely A.M.Subramaniya Chettiar.

2.2. The said A.M.Subramaniya Chettiar has made proper layout of the entire extent of property into 40 housing plots and allocated 10956 square feet of land in southern side of the land for the purpose of park and over head water tank and 1134 square feet of land for shops, for which, the third respondent has also approved the layout vide proceedings in Na.U.Thu.E.(44) No.6/02, dated 26.12.2002.

2.3. The layout is named as 'Sree Vinayaga Garden'. The petitioner purchased Plot Nos.21, 22 and 23, adjacent to the land allotted for children park and overhead water tank, vide registered sale deed No.7389, dated 11.12.2009. While so, on 15.12.2018, the



fifth respondent came with JCB and cleaned the land allotted for the purpose of children park and overhead water tank. When enquired, it came to know that the Municipality is going to construct Micro Compost Plant in the said land. Protesting the same, the petitioner and his villagers made representations to the respondents, but, the same ended in vain. In such circumstances, having left with no other option, the petitioner has filed the present Writ Petition seeking the aforesaid relief.

3. The contesting respondents filed their counter-affidavits denying all the averments made in the affidavit filed in support of the Writ Petition.

4. Heard the submissions made on either side.

5. Before going into the facts of the case, decision taken by the Hon'ble Division Bench of this Court in similar issue in **W.P.No.32938 of 2017, dated 14.03.2018 [T.G.Ruthramani vs. The Member Secretary]; M.G.M.N.N.M.Sangam v. Commissioner, Municipal Authority reported in 2019(2) MLJ 114; W.P.(MD)Nos.19552 and 20471 of 2018, dated 13.03.2019 [P.Radhakrishnan vs. the District Collector, Theni District]; W.P.No.29791 of 2018, dated 29.08.2019 [K.Karunaimoorthy vs. The District Collector, Coimbatore District]; W.P.(MD)No.19334 of 2019, dated 06.09.2019 [Anthony Raj vs. The District Collector, Virudhunagar District]** and also the decision of the Hon'ble Supreme Court in **Petition for Special Leave to Appeal (C) No.12543 of 2019, dated 08.07.2019 [M.Krishnakumar vs. District Collector and ors.]**, has to be considered.

6. In the afore-mentioned judgments, while dismissing the Writ Petitions, the Division Bench of this Court has uniformly held that since the construction of micro compost centre is in larger public interest, there is no question of injuncting the local body. It would be of considerable advantage to the residents. In case the garbage is not treated and proper arrangements are not made for its disposal, it would result in health hazard to the local people. It is the duty of the Municipal authorities to ensure that there is no nuisance created to the residents. The authorities shall ensure that the Municipal Solid Waste Management Plant/Transfer Station is to be cleaned twice a day and is to be done very regularly to avoid mosquitoes breeding in the portion of park. It is the duty of the authorities to ensure the park to maintain properly. The Municipality shall ensure that the remaining area of the park is developed into a well maintained park. It is also directed that footpath and green belts and play equipments should be installed in the park. If the park is not maintained, it will be taken as contempt of the orders of this Court.

7. In view of the same, this Court is of the view that the issue is no longer *res integra* and the present Writ Petition is



liable to be dismissed and accordingly, dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

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Sub Assistant Registrar(CS)

SML

To

1. The Secretary, State of Tamil Nadu,
Department of Municipal Administration
and Water Supply, Fort St. George,
Chennai-600 009.
- 2.The Commissioner of Municipal Administration,
6th Floor, Ezhilagam Annex Building,
Kamarajar Promenade, Triplicane,
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- 6.The Assistant Environment Engineer,
Tamil Nadu Pollution Control Board,
No.23, Master Plan Area,
Sathur Road, Collectorate,
Virudhunagar District - 626 002.

+1 CC to M/s.ISAAC CHAMBERS, Advocate(SR-94100[F] dated 24/10/2019)

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-94400[F] dated 24/10/2019)

Order made in

W.P. (MD)No.2280 of 2019

Dated: 23.10.2019

VB(07.11.2019) 4P 9C

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