



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **23.10.2019**

CORAM:

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

W.P. (MD)No.21609 of 2018

and

W.M.P. (MD)No.19518 of 2018

C.Sadasivan

: Petitioner

Vs.

1.The District Collector,
Tirunelveli.

2.The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the second respondent from converting the place earmarked for park as dumping garbage ground and Fertilizer Production Unit in USP Nagar, Ward No.D, Block-13, T.S.Nos.71 and 72 Part, Puliyoor Road, Keezha Puliyoor Village, Tenkasi Municipality.

For Petitioner

: Mr.S.Kumar

For Respondent No.1

: Mrs.J.Padmavathi Devi,
Special Government Pleader

For Respondent No.2

: Mr.P.Athimoolapandian

ORDER

The present Writ Petition has been filed seeking issuance of a Writ of Mandamus, to forbear the second respondent from converting the place earmarked for park as dumping garbage ground and Fertilizer Production Unit in USP Nagar, Ward No.D, Block-13, T.S.Nos.71 and 72 Part, Puliyoor Road, Keezha Puliyoor Village, Tenkasi Municipality.

2.1. The case of the petitioner is that, originally, the land in S.Nos.968, 969, 970, and corresponding T.S.Nos.D13-71 and 72, to an extent of 4 Acres 71 Cents at Puliyoor Village, Tenkasi, was purchased by one U.Selvaraj, who, after purchase, developed the land into 71 plots and named the area as 'USP Nagar'. He got lay-out approval from the second respondent, by proceedings dated 31.07.2006, in Na.Ka.No.2548/06/H1, in which, 1834 square metre was earmarked as a park.

2.2. The petitioner purchased Plot Nos.59 and 60 from the said
<https://hcservices.ecourts.gov.in/hcservices/>



Selvaraj, vide registered sale deed dated 04.09.2008, for construction of house and he has also got patta in his name. On the southern side of his Plot No.59, the land is earmarked as a park in the approved layout.

2.3. While so, the second respondent dug a pit on 05.10.2018 in the place earmarked as park in the approved plan. When the petitioner and other plot owners questioning the authority, they replied that they are going to use the place as dumping garbage ground and to establish the Fertilizer Production Unit by recycling the garbage. Even though the petitioner and others sent a representation to the respondents narrating the facts, the same was not considered so far. Hence, the Writ Petition.

3. Heard the submissions made on either side.

4. 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.

5. 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.

6. 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 petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

SML

To

1. The District Collector,
Tirunelveli.

2. The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

Order made in
W.P. (MD) No.21609 of 2018
Dated: 23.10.2019

KM/ (08.11.2019) 3P 3C