

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.11299 of 2020

S.Nachimuthu

...Petitioner

-Vs-

1. The Collector of Ooty
The Office of the Collectorate
Ooty.
2. The Special Grade Town Panchayat
Rep.by its Executive Officer
Office of the Panchayat, Kothagiri
Nilgiris District.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the first respondent to dispose off the representations of the petitioner dated 02.04.2019 and 18.07.2020 and to relocate the Toilet to some other place in Ariyampatti Village, Kothagiri Taluk, Ooty, Nilgiris District within the stipulated time fixed by this Hon'ble Court.

For Petitioner : Mr.M.Rajasekhar
For Respondents : Mr.E.Balamurugan
Special Government Pleader

सत्यमेव जयते
O R D E R

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the first respondent to consider the representation made by the petitioner on 02.04.2019 and 18.07.2020 and to relocate the Toilet that has been constructed by the second respondent right behind the property of the petitioner.

2. The case of the petitioner is that the petitioner is the owner of the subject property. According to the petitioner, there are only ten residential houses in the village and the second respondent proceeded to construct a Toilet right behind

the property of the petitioner just 20 metres away from his property. According to the petitioner, the objections given even at the time when steps were taken by the second respondent to construct the toilet was not considered and the second respondent proceeded to complete the construction. The petitioner seeks for relocation of the toilet to some other place and representations were given in this regard to the respondents. Since the same were not considered, the present writ petition has been filed before this Court seeking for appropriate direction.

3. Mr.E.Balamurugan, learned Special Government Pleader appearing on behalf of the respondents submitted that the public toilet was constructed under the Swachh Bharat Scheme during the year 2018-19 and it has been constructed at the cost of a sum of Rs.12,75,000/-. Learned counsel further submitted that this toilet has been put to use by the villagers and it has already been provided with water and electricity connection. Learned counsel submitted that it is not possible to close down the toilet or relocate the toilet since the villagers will again resort to open defecation. Learned Special Government Pleader also brought to the notice of this Court the completion report, which shows that the construction was completed as early as in November 2019 itself.

4. Mr.Rajasekar, learned counsel for the petitioner submitted that the property in which the toilet has been constructed does not even belong to the Panchayat and it actually belongs to one Kettan and since he died, taking advantage of his absence, the construction has been put up by the second respondent. Learned counsel submitted that the toilet is located very near the property belonging to the petitioner and the same will result in health hazard to the petitioner and his family members. Learned counsel concluded his argument by submitting that the petitioner will incur the cost for the relocation of the toilet and there are sufficient places where the toilet can be relocated.

5. This Court has carefully considered the submissions made by either side and the materials placed on record.

6. This Court is not in a position to accede to the request made by the petitioner. The toilet has been constructed under the Swachh Bharat Scheme and it is already being utilised by the villagers. A substantial amount has been spent towards its construction and already water and electricity connection has been given. Therefore, it is not possible for the respondents to now relocate the toilet to some other place. It is seen from the completion report that the structure has been completed as early as in November 2019 itself. Therefore, it has to be put

to proper use. In that view, no useful purpose would be served by directing the respondents to dispose of the representations submitted by the petitioner. The second respondent shall ensure that the toilet is properly maintained and the same does not lead to causing any health hazards to the petitioner and his family members, who are residing very near to the Toilet.

7. The Writ Petition is disposed of in the above terms. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Collector of Ooty
The Office of the Collectorate
Ooty.
2. The Special Grade Town Panchayat
Rep.by its Executive Officer
Office of the Panchayat, Kothagiri
Nilgiris District.

+1 cc to the Government Pleader Sr.No.27785

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