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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2021

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.2455 of 2021 and
W.M.P.No.2767 of 2021

S.Amutha

... Petitioner

Vs

1.The District Collector,
Coimbatore.

2.The Chairman,
Nanjundapuram Panchayat,
Nanjundapuram Village,
Coimbatore.

3.The President,
Nanjundapuram Panchayat,
Nanjundapuram Village,
Coimbatore.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus to forbear the respondents from proceeding with construction of Public toilet in reserved site viz., P.P.No.1 in S.F.No.204/1 Athistalakshmi lay out, Nanjundapuram Village, Coimbatore Taluk, Coimbatore District.

For Petitioner : Mr.S.Mukunth

For Respondents : Mrs.V.Yamuna Devi
Special Government Pleader (for R1)

: Mr.Parameswaran
Standing Counsel (for R2 & R3)

ORDER

The prayer sought for herein is for a writ of mandamus to forbear the respondents from proceeding with construction of public toilet in reserved site viz., P.P.No.1 in S.F.No.204/1 Athistalakshmi lay out, Nanjundapuram Village, Coimbatore Taluk, Coimbatore District.



2. The petitioner claimed that she purchased an extent of 2.76 acres of land in Survey No.204/1 and 0.28 acres in S.F.No.207/1A in No.22, Nanjundapuram Village, Coimbatore Taluk in 2011.

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3. Thereafter, the petitioner decided to develop a layout in the said property, accordingly a layout has been prepared. When approval was given for the said layout, two earmarked portions were shown as reserved public purposes with observation PP1 and PP2.

4. The said public purpose places earmarked in the said layout, in fact, had been handed over to the 3rd respondent i.e., the Village Panchayat for the purpose of utility of the land for any public purpose. But, subsequently there was a proposal mooted by the 3rd respondent Panchayat to construct the Panchayat Board Office building in one of the earmarked area for public purpose as PP1 in the marked layout. However, the said proposal after some time has been stalled.

5. When that being so, all of a sudden, now the 3rd respondent has come out with the proposal to construct a public toilet in the very same place PP1, for which, all preparatory measures are being taken.

6. In this regard, it is the grievance of not only the petitioner but also all plot owners who purchased the plot in the layout that, if at all the 3rd respondent Panchayat wants to construct a public toilet, that need not be in the midst or middle of the layout, where, number of residential plots are there and it can be constructed in a poramboke land or panchayat land which are available just 100 meters away from the layout. When this alternative suggestion had been made and objection had been raised by the petitioner for the proposed construction of public toilet in the layout plan adjacent to the residential plots, the respondents, especially the 3rd respondent has not acceded to the said request made on behalf of the petitioner and other plot owners. Therefore, in order to prevent the 3rd respondent from go ahead with the construction of public toilet in the public place in the residential layout and to make the said construction in any alternative site belongs to the Panchayat or Government, the petitioner has moved the present writ petition seeking for a writ of mandamus as prayed for.

7. Heard Mr.S.Mukunth, learned counsel appearing for the petitioner who would submit that, the construction of public toilet though is one of the construction for the public purpose, altogether it is not being opposed by the petitioner or any other plot owners, but what they requested is that, for the construction of the public toilet, there are enough Government land and Panchayat land available that too very nearer to the



layout, therefore, that alternative site can be first chosen.

8. Instead, if the proposed public toilet is constructed in the midst of the residential colony in the layout, that will create lot of pollution and nuisance, which will be the hindrance for the other owners who purchased the plot for dwelling houses.

9. Therefore, the learned counsel for the petitioner would seek indulgence of this Court to give a suitable direction to the respondents to explore the possibility of constructing the public toilet as proposed by the 3rd respondent in any other Panchayat or Government poramboke land, which, in fact, are abundantly available just 100 meters away from the layout, hence, he seeks indulgence of this Court in this regard.

10. Heard Mrs.V.Yamuna Devi, learned Special Government Pleader for the 1st respondent and Mr.Parameswaran, learned Standing Counsel for respondents 2 and 3, who would submit that, once the layout having been approved, the petitioner being the promoter of the layout since had handed over the public places earmarked to the Local Panchayat i.e., the 2nd and 3rd respondents, the property earmarked for public purpose vests with the Panchayat. Therefore, in that property belongs to the Panchayat, the Panchayat can make any construction activities for public purpose.

11. In this regard, they say that, the construction of a public toilet is also a public purpose, for which, the land earmarked for public purpose can be very much used and exploited.

12. In this regard, neither the Panchayat nor any other owners of the layout are having any locus standi to raise objection against the 3rd respondent Panchayat to construct the proposed public toilet in the earmarked place i.e., PP1 shown in the layout plan and therefore, in this regard, the objection raised by the petitioner or other persons is untenable, therefore, the writ petition deserves to be dismissed, they contended.

13. I have considered the said submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

14. As has been pointed out by the learned counsel for the respondents, the petitioner or any other plot owners may not have any locus to raise any objection with regard to the proposed construction of public toilet in the earmarked place, which has been meant only for public purposes. Insofar as the alternative plea made by the petitioner side that, since there



is vacant poramboke and Panchayat land available that too very nearer to the layout (just 100 meters), such a chance can be explored first by the Village Panchayat and thereafter, if there is no scope for having any land belongs to the Panchayat or Government for the purpose of constructing public toilet, then, they can exploit their area earmarked for the public purpose in the approved layout, the said plea raised by the petitioner side, in the considered opinion of this Court, can be considered by the respondent Panchayat first and then only they can proceed to construct the public toilet in the earmarked place in the layout for want of enough available place in Panchayat or Government.

15. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

That the petitioner or any other plot owners of the layout, though have no locus to raise any objection against the 3rd respondent Panchayat for constructing a public toilet in the earmarked place meant for public purposes in the approved layout, in case, if there is any alternative site is available that too nearby to the layout belongs to either of the Panchayat or of the Government, that can first be explored by the respondent Panchayat. If the alternative place is not suitable or the available alternative place cannot be made use for the present purpose of proposed construction of public toilet, then only as a last reserved site, the Panchayat can come to the present place i.e., the place earmarked for public place in the approved layout. Hence, this Court directs the 3rd respondent Panchayat to explore the possibility of alternative site for the proposed construction of public toilet, as indicated above, as a first step and in case of any failure for the reasons to be recorded in this regard, then, they shall be free to exploit the land earmarked for public purpose of the approved layout which is being objected now by the petitioner and others for the construction of public toilet.

16. With these observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar



Sgl

To

1.The District Collector,
Coimbatore.

2.The Chairman,
Nanjundapuram Panchayat,
Nanjundapuram Village,
Coimbatore.

3.The President,
Nanjundapuram Panchayat,
Nanjundapuram Village,
Coimbatore.

4.The Government Advocate,
High Court, Madras.

+1cc to M/s.Saravabhauman Associates, S.R.No.65153

+1cc to the Government Pleader, S.R.No.65312

W.P. No.2455 of 2021

SSI (CO)
SB(15/02/2022)