

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 2058 of 2021

Date of Decision: 21.09.2021

Parkash Kaur

....Petitioner

VS

Gram Panchayat of Village Laroya

....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vijay Lath, Advocate
for the petitioner

SUDHIR MITTAL, J. (Oral)

A suit for permanent injunction restraining the defendant and its agents etc. from constructing public toilets in the area of Primary School of Girls adjoining/abutting the house of the plaintiff without adopting re-course to due legal process has been filed. Alongwith the plaint, an application under Order 39 Rules 1 and 2 CPC has also been filed. The said application has been dismissed by the trial Court. Appeal against the said order is pending. Alongwith the appeal an application for ad interim stay was filed but the same has been dismissed vide order dated 10.09.2021. This revision petition is directed against the said order.

It is submitted that the revenue record shows that public toilets are being constructed in land meant for a school. Land reserved for a particular common purpose can not be used for a different purpose without approval of the Government. Government approval has not been brought on record by the defendant-respondent and, thus, the appellate Court was in error in dismissing the application for ad interim stay. Further, a water tank exists on land adjoining the land where public toilets are being constructed. The water tank stores water drawn

from the earth through a borewell. On account of construction of public toilets, underground water would get contaminated over a period of time and this would result in a health hazard.

With the assistance of learned counsel for the petitioner, I have gone thorough the record. Para No. 5 of the plaint contains the pleadings regarding construction of public toilets on land meant for a school without sanction. The corresponding reply of the Gram Panchayat admits that the toilets are being constructed over land meant for primary school, however, it has been clarified that the primary school is not functioning and that has been the status for many years. The averment that Government sanction has not been received is denied. It has further been stated that public toilets are being constructed under the Swachh Bharat Mission Gramin Phase-II Scheme for which funds have been provided by the Department of Water Supply and Sanitation.

In view of the state of the pleadings, the arguments of learned counsel for the petitioner that sanction of the Government has not been received can not be accepted. The written statement makes it clear that funds for construction of the public toilets have been provided by the Department of Water Supply and Sanitation under a scheme floated for providing proper sanitation in villages and the allegation of non-receipt of sanction has been denied. Whether sanction has actually been granted or not is a matter of evidence. *Prima facie*, it appears that the litigation is motivated by extraneous considerations. Regarding the contention that ground water will be polluted, suffice to say that the toilets are being constructed under a scheme for providing better sanitation in rural areas. Thus, adequate arrangements would have been made for proper disposal of sewage. The argument is, thus, misconceived.

On the basis of the aforementioned discussion, it can be safely stated

convenience also does not lie in her favour. Thus, the appellate Court was justified in rejecting the application for grant of ad interim stay.

The revision petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

21.09.2021

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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No