



W.P.No.29535 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.29535 of 2022

V.Manikandan, Ex.MLA

.. Petitioner

Vs

1. The Chief Secretary to
Government of Puducherry
Chief Secretariat, Puducherry.
2. The District Collector cum
Secretary to Local Administrative Department
Puducherry.
3. The Joint Chief Executive Officer
Puducherry Smart City Development Limited
Puducherry.
4. The Commissioner
Puducherry Municipality
Puducherry.
5. Prakash Kumar, MLA
Member of Legislative Assembly
Muthiyalpet Constituency
Puducherry.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondents 3 and 4 not to demolish the toilet and pass such further or other orders as the court may deem fit.

For the Petitioner : Ms.P.Meghana Nair

For Respondents 1 to 4 : Mr.V.Balamurugane
Government Pleader
(Puducherry)

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed by the petitioner for issuance of a writ of mandamus directing respondents 3 and 4 not to demolish the toilet.

2. Learned counsel appearing for the petitioner submitted that the petitioner was a Member of the Legislative Assembly from Muthiyalpet Constituency during 2016-2021. In his Constituency, four public municipal pay and use toilets are available in the following places:



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- (1)Thiruvalluvar Nagar
- (2)Muthiyalpet Market
- (3)Solai Nagar
- (4)Ezhai Mari Amman Kovil Street

3. Learned counsel for the petitioner further submitted that the present MLA of Muthialpet Constituency has submitted a representation to the third respondent to demolish the municipal pay and use public toilet existing at junction of Ezhaimariamman Kovil Street in Muthiyalpet to construct a playground along with park. Objecting the demolition, one Anbuvel and the general public of Muthialpet who are using the toilet have submitted a representation to the petitioner on 16.10.2022 to take up the issue with the concerned officials to forbear them from demolishing the toilet in question. Learned counsel would submit that when the present pay and use toilet is being used by the public, auto drivers, hawkers and the local residents of Muthialpet area, the same should not be demolished.



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4. On the other hand, learned Government Pleader (Puducherry) appearing for respondents 1 to 4, submitted that as per the proceedings of the Joint Chief Executive Officer, Puducherry Smart City Development Limited (PSCDL), Puducherry, dated 12.09.2022, the Commissioner, Puducherry Municipality was directed to take action for demolishing the toilet for conversion into sports ground-cum-toilet as requested by the MLA. He would submit that pursuant to the proceedings dated 12.09.2022, the fifth respondent Commissioner has taken necessary action for conversion of the public toilet block existing at the junction of Ehaimariamman Koil Street into sports ground-cum-toilet as per the Smart City Scheme and, in view of the above, the apprehension expressed by the petitioner before this Court that the existing toilet is going to be demolished should be held unfounded, as they are going to re-build a modern toilet in the said place.

5. At this juncture, learned counsel appearing for the petitioner submitted that the toilet in question has been in existence for more than forty years, although renovated in the year 2005 by



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using the MLA Constituency Development Fund, and therefore the same should not be demolished.

6. In reply, the learned Government Pleader (Puducherry) submitted that when the petitioner himself admitted in paragraph 5 of the affidavit that the toilet in question was in existence for more than forty years, being an old one, it requires to be demolished and re-constructed with good modern facilities. Learned Government Pleader further submitted that a new modern toilet is going to be constructed inside the sports ground having a separate entrance enabling the public from outside to use it on pay and use terms. Ordinarily, a 40-year old building needs reconstruction, while so, a 40-year old toilet necessarily needs to be rebuilt.

7. We have considered the submissions raised by learned counsel for the parties.

8. Admittedly, the toilet in question located at Ezhaimariamman Kovil Street was in existence for more than 40



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years and pursuant to the representation made by the MLA of Muthialpet Constituency for modification of the same into park and sports ground, necessary NOC for demolition of the toilet block was issued by the fourth respondent Commissioner, Puducherry Municipality.

9. On a perusal of the proceedings of the Puducherry Smart City Development Limited, dated 12.09.2022, it is seen that a file was submitted to the Government through proper channel for obtaining administrative approval for demolishing the existing toilet block and the Joint Chief Executive Officer of PSCDL also directed the fourth respondent Commissioner, Puducherry Municipality to take action for demolishing the toilet for conversion into sports ground-cum-toilet. As rightly argued, when a 40-year old building is demolished for reconstruction, this 40-year old toilet, after undergoing wear and tear, should be demolished for reconstruction.

10. In view of the proceedings of the PSCDL and also the submissions made by learned Government Pleader (Puducherry),



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we do not find any ground to interfere with the process of demolition of the existing toilet in question for conversion into sports ground-cum-toilet. The existing toilet block at the junction of Ezhaimariamman Koil Street can be demolished and shall be re-built as stated in the proceedings of the Puducherry Smart City Development Limited dated 12.09.2022 as expeditiously as possible and after completion of the construction of the toilet with modern facilities, the authority concerned shall allow the general public, including auto drivers and hawkers etc., to use the same on pay and use terms.

11. With the above observation, the writ petition is disposed of. There will be no order as to costs. Consequently, W.M.P.No.28918 of 2022 is closed.

(T.R., ACJ.) (D.K.K., J.)
08.11.2022

Index : Yes/No
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To:

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T.RAJA, ACJ.
AND
D.KRISHNAKUMAR,J.

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