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Writ Petition No.29723 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 9/1/2023

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition No.29723 of 2022

P. Sivakumar

...

Petitioner

Vs

1. The District Collector
Tiruppur
Tiruppur District.
2. The Revenue Divisional Officer
Tiruppur
Tiruppur District.
3. The Tahsildar
Avinashi
Tiruppur District.
4. The President
Thirumrugaipoondi Municipality
Tiruppur
Tiruppur District.
5. The Chairman
State Level Environment Impact
Assessment Authority – Tamil Nadu
III Floor, Panagal Maaligai
1 Jeenis Road, Saidapet
Chennai.



Writ Petition No.29723 of 2022

6. The Commissioner
Thirumuruganpoondi Municipality
Tiruppur
Tiruppur District.

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Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents 1 to 5 either to shift or restrain the sixth respondent from functioning of Solid Waste Management Park in the Government Poramboke Vandipathai land comprised in S.No.488/1 situated at Rakkiyalalayam Village, Thirumuruganpoondi, Avinashi Taluk, Tiruppur District by considering the petitioner's representation dated 10/9/2022.

For Petitioner ... Mr.J.Myilsamy

For respondents ... Mr.K.M.D.Muhilan
Additional Government Pleader
for R.R.1 to 3

ORDER

This writ petition has been filed to direct the respondents 1 to 5 either to shift or restrain the sixth respondent from functioning of Solid Waste Management Park in the Government Poramboke Vandipathai land comprised in S.No.488/1 situated at Rakkiyalalayam Village, Thirumuruganpoondi, Avinashi Taluk, Tiruppur District by considering the petitioner's representation dated 10/9/2022.



2. It is the case of the agricultural land measuring to an extent of 2.78 acres and cents comprised in petitioner that he is the owner of the S.No.488/3A4, 488/3A5, 488/3A6, 488/3A7 situated at Rakkiyalalayam Village, Thirumuruganpoondi, Avinashi Taluk, Tiruppur District vide registered partition deed dated 27.10.2014 bearing document No.10661/2014 on the file of SRO. 4 Avinashi. It is the further case of the petitioner that to the northern side a cart track is running and the same is classified as a Government Poramboke Vandipathai comprised in S.No.488/1. Through this cart track the petitioner has been accessing for ingress and egress to his land. There is no other pathway except this cart track to the petitioner. When the matter stood thus, the sixth respondent without obtaining any sanction from the first respondent as required under BSO 23 A had established a solid waste management park wherein the wastes collected throughout entire area were recycled and transported. The same causes severe pollution to the petitioner and he is unable to do cultivation in his agricultural land. It is also the contention of the petitioner that Prior Environmental Clearance Notification dated 14.09.2006 prescribes before establishing solid waste management unit, the 6th respondent has to obtain prior clearance certificate from the fifth respondent. But nothing has been obtained. Hence, the present Writ Petition.



3. Mr.K.M.D.Muhilan, learned Additional Government Pleader for the respondents 1 to 3, submitted that Solid Waste Management unit has been constructed, in order to produce the manure from the Solid Waste. Access to the petitioner's land has never been obstructed. Still 50 feet road is very much available and the petitioner's property situate around the distance of half a kilometer, away from the west. The petitioner is a Ward Member and in order to take personal gain, he has filed the writ petition. As the amount has already invested and Solid Waste Management Park is also functioning, question of shifting the same does not arise at all.

4. Heard Mr.K.Myilsamy, learned counsel for the petitioner and Mr.K.M.D.Muhilan, learned Additional Government Pleader for the respondents 1 to 3.

5. I have perused the materials available on record and sketch produced by the respondents.

6. The main grievance of the petitioner is that sixth respondent, without obtaining any sanction from the first respondent, as required under BSO 23 A, had established Solid Waste Management Park, wherein the



wastes were collected through out the entire area were recycled and transported. Due to this, the petitioner's right to access his property is prevented.

7. Submission of the learned counsel appearing for the petitioner cannot be countenanced for the reason that Solid Waste Management Plant was constructed only in the southern side of the area. In the northern side, 12 feet road is still existing and on the other side, more than 30 feet is available, for the purpose of access. The petitioner's property is situate at S.No.488/1, whereas the proposed compost yard is situate at S.F.No.253/2, which is far away from the main road. Therefore, the writ petition on the ground of obstruction has to fail.

8. Another ground raised by the learned counsel appearing for the petitioner is that no Environmental Clearance was obtained before establishing Solid Waste Management. Mr.K.M.D.Muhilan, learned Additional Government Pleader appearing for the respondents 1 to 3 produced a Proceeding, dated 20/4/2019 of the Tamil Nadu Pollution Control Board, wherein it is clearly stated that composite yard was permitted to be built in the Village by the Pollution Control Board and the



Writ Petition No.29723 of 2022

Government fund of more than Rs.10 lakhs was utilised and now, composite yard is in operation. Therefore, non possession of Environmental Clearance certificate, cannot be a ground to remove the composite yard. If at all any such clearance is required, it is for the parties to approach the authorities to get such clearance certificate.

9. When the petitioner's access is neither interfered nor blocked, the petitioner being the husband of the ward member of the Municipality cannot prevent such public works which is meant for public at large. The public interest will prevail over the private interest. On a perusal of the entire sketch, this Court is of the view that the instant writ petition filed by the petitioner is nothing but a personal agenda of the petitioner.

10. In such a view of the matter, I do not find any merit in the writ petition and accordingly, the same is dismissed.

9/1/2023

mvs.

Index : Yes / No

Internet: Yes

Speaking/non speaking order

Neutral Citation: Yes/No



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