



W.P(MD)No.28649 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28649 of 2022

and

W.M.P(MD).No.22674 of 2022

R.Perumalsamy

... Petitioner

Vs.

- 1.The District Collector,
Theni District, Theni.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO), NRT Nagar, Theni 625 531.
- 3.The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Deivendhrapuram,
Keelavadagarai, Periyakulam,
Theni District.
- 4.The Tahsildar,
Periyakulam Taluk,
Theni District.
- 5.The Block Development Officer,
(Village Panchayats),
Having Office at Perumalpuram,
Keelavadagari,
Periyakulam Taluk,
Theni District.



W.P(MD)No.28649 of 2022

6.S.Selvarani

... Respondents

WEB COPY

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1, 4, 5 and 6 not to construct a toilet or any building abutting the road poramboke situated at S.No.80/1 of Deivendrapuram, Keelavadagarai Village, Periyakulam Taluk, Theni District.

For Petitioner : Mrs.J.Padhmaavathi Devi

For Respondents : Mr.M.Lingadurai (For R1, R4 & R5)
Special Government Pleader
Mr.S.Deenadhayalan
Standing Counsel (for R2 & R3)

ORDER

Heard the learned counsel on either side.

2. The petitioner wants this Court to restrain the official respondents from constructing a toilet at the petition mentioned site. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. She specifically contended that the proposed toilet would come right in front of the petitioner's house and that it would cause considerable nuisance and hardship.



W.P(MD)No.28649 of 2022

3. The concerns expressed by the petitioner may well be founded.

However, it is not for the Writ Court to choose the site, on which, a public toilet is to come up. These are matters which have to be necessarily decided by the officials concerned. The site in question had already been approved by the concerned competent authority. Administrative sanction has been accorded.

4. The learned Special Government Pleader pointed out that the site is not part of a pathway. It is only adjacent to an existing pathway. He also would claim that on account of the stalling of the works in view of the interim order granted by this Court, there was a public agitation also.

5. In these circumstances, it would not be open to this Court to grant any relief to the petitioner. The only condition that this Court can stipulate is that the proposed toilet must be well maintained with due regard to all norms of hygiene. In other words, the toilet cannot be run in a manner, which may cause nuisance or health hazard to the writ petitioner. If the toilet is not maintained properly, it is certainly open to the petitioner to move the concerned health authorities.



W.P(MD)No.28649 of 2022

6. With the above liberty to the writ petitioner and the direction to the local body, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

24.01.2023

NCC : Yes / No
Index : Yes / No
Rmk

To

- 1.The District Collector,
Theni District, Theni.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO), NRT Nagar, Theni 625 531.
- 3.The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO),
Deivendhrapuram,
Keelavadagarai, Periyakulam,
Theni District.
- 4.The Tahsildar,
Periyakulam Taluk,
Theni District.
- 5.The Block Development Officer,
(Village Panchayats),
Having Office at Perumalpuram,
Keelavadagari,
Periyakulam Taluk,
Theni District.



WEB COPY



W.P(MD)No.28649 of 2022

G.R.SWAMINATHAN, J.,

Rmk

W.P(MD)No.28649 of 2022

24.01.2023