



W.P.No.19.....

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM:

THE HON'BLE MR.D.KRISHNAKUMAR
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.No.19506 of 2024

and

W.M.P.No.21362 of 2024

K.Kapildev

... Petitioners

-VS-

1. The District Collector,
Collector Office,
Erode District.
2. The Zonal Director,
Municipal Administration-Tiruppur,
Tiruppur District.
3. The Commissioner,
P.Puliyampatty-Municipal Corporation,
P.Puliyampatty, Erode District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent nos.1 and 2 to take action against the 3rd respondent and remove the sewage treatment plant constructed by the 3rd respondent on the water stream based on the representation dated 10.06.2024 of the petitioner.

For Petitioners : Mr.N.Chinnaraj



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For R1 & R2 : Mr.Karthik Jeganath
Govt. Advocate
For R3 : Mr.Haja Naziruddin
Addl. Advocate General
Assisted by Mr.B.Anand

ORDER

(By the Hon'ble Acting Chief Justice)

This Writ Petition has been filed for a direction to the respondent nos.1 and 2 to take action against the 3rd respondent and remove the sewage treatment plant constructed by the 3rd respondent on the water stream based on the representation dated 10.06.2024 of the petitioner.

2. It is the case of the petitioner that a sewage treatment plant is being constructed on the rain water stream by the 3rd respondent in S.F.No.238/1, which is classified as Vaari and due to construction of the said plant, there has been emanation of bad odor from the plant, causing a serious health hazard to the public at large residing around the plant. It is further case of the petitioner that though he has submitted a representation dated 10.06.2024 for removal of the plant, there was no response from the 3rd respondent. Hence, the instant Writ Petition has been filed.

3. The 3rd respondent has filed a counter affidavit, wherein it has been stated



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as follows:

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i) The pollution caused to the ground water in S.No.238/1 was on account of letting out the Grey water in the open vacant land and there was no implementation of underground sewage system in the said area in question, for the reason that the population of Punjai Puliampatti is less than 1 lakh and as per the policy decision of the Government, population should be more than 1 lakh to implement the project;

ii) The 3rd respondent had constructed the waste water treatment plant only in S.F.No.233/2 and not in S.F.No.238/1 as averred by the petitioner and the work was sanctioned under SBM 2.0/2022-2023 with the project cost of Rs.663.00 lakhs on 15.03.2023. The work order was issued on 17.05.2023 and the work was commenced on 11.07.2023;

iii) it is further stated in the counter affidavit that 95% of the work was completed by the 3rd respondent. It is incorrect to state that the 3rd respondent has encroached the water body land and has been constructing sewerage treatment plant or commercial or administrative blocks or motor rooms;

iv) The petitioner, without getting property details or particulars, has filed



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the Writ Petition in the nature of Public Interest Litigation, which is devoid of merits and needs to be dismissed *in limine*.

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4. On reading of the aforesaid counter affidavit of the 3rd respondent, it is apparent that the Sewerage Water Treatment Plant has been constructed only in S.F.No.233/2, for which, the work was entrusted as early as on 17.05.2023 itself. The instant Writ Petition has been filed at the eleventh hour, that too, after completion of 95% of work in S.F.No.233/2 and the said Survey Number is not the subject matter of the petition. The petitioner has filed this petition in a hurried manner without ascertaining the correct particulars as to the exact survey number in which the plant is being constructed. Hence, we are of the view that no relief can be granted to the petitioner, much less consideration of the representation of the petitioner. Though it is a fit case to impose costs on the petitioner for wasting Court's time, we refrain from imposition of costs at this stage.

5. In the result, ***this Writ Petition is dismissed as devoid of merits***. No costs. Consequently, connected Miscellaneous Petition is closed.



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[D.K.K.,ACJ.]

[P.B.B.,J.]

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Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
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To:

1. The District Collector,
Collector Office,
Erode District.
2. The Zonal Director,
Municipal Administration-Tiruppur,
Tiruppur District.
3. The Commissioner,
P.Puliyampatty-Municipal Corporation,
P.Puliyampatty, Erode District.

HON'BLE ACTING CHIEF JUSTICE,
AND
P.B.BALAJI,J.,
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