

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C) .No. 1435 of 2010 (D)

PETITIONER(S) :

T.P.MUHAMMED,
S/O. KUNJIMOIDU, THARAMAPARAMBIL HOUSE,
4, VARAMBANALA,
VALAVANNUR PANCHAYAT, MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR.

RESPONDENT(S) :

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1. VALAVANNUR GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, VALAVANNUR P.O.,
MALAPPURAM DISTRICT.
 2. THE SECRETARY,
VALAVANNUR GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
VALAVANNUR.P.O., MALAPPURAM DISTRICT.
 3. PREMAKRISHNAN NAIR,
INDUS TOWERS LTD., VII/588, 2ND FLOOR,
S L AVENUE, NH BYE PASS, 47, KUNDANNUR,
MARAD P.O., KOCHI-682 304.

R3 BY ADV. SRI.P.SATHISAN &
R1,2 BY ADV. SRI.K.ANAND.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1 : TRUE COPY OF IDENTITY CARD ISSUED TO THE PETITIONER BY THE ELECTORAL REGISTRATION OFFICER, ELECTION COMMISSION OF INDIA.
- EXT. P2 : TRUE COPY OF THE APPLICATION DATED 05/02/2009 ALONG WITH ENCLOSURES SUBMITTED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT.
- EXT. P3 : TRUE COPY OF THE BUILDING PERMIT DATED 22/05/2009 ISSUED BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT.
- EXT. P4 : TRUE COPY OF THE LOCAL PLAN OF THE AREA WHERE THE TELECOMMUNICATION TOWER OF THE 3RD RESPONDENT IS SOUGHT TO BE ERECTED.
- EXT. P5 : TRUE COPY OF THE PHOTOGRAPHS SHOWING THE SITE FOR TELECOMMUNICATION TOWER OF THE 3RD RESPONDENT AND THE NEARBY HOUSES AND INSTITUTIONS.
- EXT. P6 : TRUE COPY OF THE INTERIM ORDER DATED 13/01/2012 IN WP(C) 32570/2011.
- EXT. P7 : TRUE COPY OF THE INTERIM ORDERS DATED 30/01/2010 IN WP(C) 32570/2011.
- EXT. P8 : TRUE COPY OF THE COMMUNICATION ISSUED BY THE PANCHAYATH TO THE PETITIONER DATED 03/02/2012.

RESPONDENT(S) ' EXHIBITS :

- EXT. R3(A) : TRUE COPY OF THE CENTRAL GOVERNMENT LICENSE AND A COPY OF THE RELEVANT EXTRACT.
- EXT. R3(B) : TRUE COPY OF THE JUDGMENT IN WP(C) NO.34004/2009 DATED 10/12/2009.
- EXT. R3(C) : TRUE COPY OF THE BUILDING PERMIT DATED 22/05/2009.
- EXT. R3(D) : TRUE COPY OF THE EQUIPMENT STANDARDS SPECIFIED BY AUTHORITY TO ONE OF THE SERVICE PROVIDERS.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J

WPC No.1435 of 2010

Dated this the 2nd day of June, 2015

JUDGMENT

Aggrieved by the construction of mobile tower by the third respondent as per Ext.P3, the petitioner has come up before this Court.

2. According to the petitioner, he is a resident of Valavannur Grama Panchayat. The third respondent has been granted building permit by the second respondent to construct a mobile telecommunication tower. The application for building permit to construct telecommunication tower was submitted by the third respondent on 5.2.2009. The second respondent without any enquiry or inspection granted the permit requested for without giving any details as to the length, width, height of the telecommunication tower. This is against the provisions contained in Chapter XIX of the Kerala

Municipal Building Rules, 1999. No site approval was applied for by the third respondent nor any site approval was granted as required under Rule 140A of the Rules. The area where the telecommunication tower is sought to be erected by the third respondent is a thickly populated area where there are number of houses. The Panchayat has a duty to ensure that the health of the local residents are not affected and that no nuisance is caused by the Telecommunication tower of the third respondent. It is with this background, the petitioner has come up before this Court.

I have heard the learned counsel for the petitioner and the learned counsel for the third respondent.

The learned counsel for the third respondent inviting my attention to G.O.M.S.No.31/2014/ITD dated 5.11.2014 stated that the authority as per the said Government order to consider the said issue is the District Telecom Committee headed by the District Committee.

Therefore, this writ petition is closed permitting the petitioner as well as the third respondent to approach the

District Telecom Committee for their redressal of their grievance.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

P.S.TO JUDGE