

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 7121 of 2013 (M)

PETITIONER(S) :

**A.S.ANILKUMAR,
INDIVARAM, MARUTHAMAN PALLI, POOYAPPALLY P.O.,
KOTTARAKKARA TALUK, KOLLAM DISTRICT, PIN- 691 537.**

BY ADV. SRI.R.SATISH KUMAR

RESPONDENT(S) :

- 1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
TELECOMMUNICATION DEPARTMENT, SECRETARIAT,
NEW DELHI-110 001.**
- 2. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, HEALTH DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 3. THE REVENUE DIVISIONAL OFFICER,
KOLLAM-695 009.**
- 4. THE VILLAGE OFFICER,
POOYAPPALLY, KOLLAM DISTRICT-691 537.**
- 5. THE SECRETARY,
POOYAPPALLY GRAMA PANCHAYATH, POOYAPPALLY,
KOLLAM DISTRICT- 691 537.**
- 6. THE KERALA STATE POLLUTION CONTROL BOARD,
PATTOM, THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY-695 001.**
- 7. THE MANAGING DIRECTOR,
INDUS TOWER LIMITED, VANKARATH TOWERS, 8TH FLOOR,
N.H.BYE PASS, PALARIVATTOM, ERNAKULAM-682 025.**

WP(C).No. 7121 of 2013 (M)

**8. MR.JACOB JOHN,
KAIPPALLIYAZHIKAM VEEDU, MARUTHAMAN PALLI, POOYAPPALLY,
KOLLAM DISTRICT-691 537.**

**R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 TO R4 BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN
R5 BY ADV. SRI.BINDU SREEKUMAR
R6 BY ADV. SRI.M.R.ARUNKUMAR, SC, POLLUTION CONTROL BOARD
R7 BY ADV. SRI.P.SATHISAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE PETITION DATED 04.03.2013 FILED BY
THE PETITIONER BEFORE THE 3RD RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE GUIDELINES OF TELECOMMUNICATION
DEPARTMENT DOWNLOADED FROM INTERNET.**

RESPONDENT(S)' EXHIBITS :

EXHIBIT R7(A): TRUE COPY OF THE BUILDING PERMIT DATED 18.02.2013.

**EXHIBIT R7(B): TRUE COPY OF THE GUIDELINES FOR ISSUED OF
CLEARANCE FOR INSTALLATION OF MOBILE TOWER.**

**EXHIBIT R7(C): COPY OF THE CIRCULAR ISSUED BY DEPARTMENT OF
TELECOM TO REDUCE THE POWER DENSITY OF
EMISSIONS FROM THE TOWER TO 1/10TH WITH EFFECT
FROM 01.09.2012.**

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.7121 of 2013

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Dated this the 20th day of July, 2015

JUDGMENT

The petitioner is seeking a direction against respondents to stop further installation work of Cell Phone Towers in 40.40 ares of property comprised in Sy. No.291/6 of Poorappally village, Kollam District.

2. The 7th respondent started installation of Cell Phone Tower in 40.40 Ares of the property comprised in Sy. No.291/6 of Pooyappally village, Kollam district owned by the eight respondent. The petitioner submitted Ext.P1 petitioner to the third respondent stating that he is residing with his family within 20 metres of the proposed tower and there are several residential building within 50 metres and the radius form the Tower would seriously effect the petitioner's health, his family and other residents in the area.

3. The third respondent forwarded the petitioner to the fifth

respondent calling for enquiry and report. It is alleged that the fifth respondent reported that the petitioner is living within 20 metres of the proposed Cell Phone Tower and that Veterinary Hospital and Primary Health Centre are situated close to the property of the proposed Cell Phone Tower within 50 metres distance.

4. The petitioner points out that Ext.P5 guidelines issued by the Telecom Departments states that:

(a) First preference shall be given to the location of the tower in the forest area:

(b) Second preference shall be given to the location of Towers in the open public areas away from residential locations:

(c) Where it is not possible to avoid the location of tower in residential area, the same shall be located in open space or park with prior consent of owners of adjoining residential houses:

(d) Erection of Tower shall not be allowed within a radius of 100 metres from residential building, school and hospital:

5. The proposed Cell Phone Tower is within 100 metres of two hospitals and several residential building, which would seriously affect the health of local residents and animals; it is alleged. It is with

this background, the petitioner has come up before this Court.

6. Arguments have been heard.

As the authority now competent to consider Ext.P1 is the District Telecom Authority, the writ petition is disposed of permitting the petitioner to approach the aforesaid authority with a proper application for redressal of his grievance within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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