

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WP(C).No. 16472 of 2015 (H)

PETITIONER(S):

1. **C.K.SAHEED GURUKKAL,
S/O.MOIDEENKUTTY GURUKKAL, CHANGAMPALLY HOUSE.**
2. **C.P. LATHEEF, S/O. KOYA
CHITTAKATH POTTAMMAL HOUSE,
BOTH THE PETITIONERS ARE RESIDING AT THIRUNAVAYA (PO),
PIN-676301, TIRUR TALUK, MALAPPURAM DISTRICT.**

BY ADV. SRI.JAMSHEED HAFIZ

RESPONDENT(S):

1. **THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
2. **THE DISTRICT COLLECTOR, MALAPPURAM,
MALAPPURAM (PO), PIN.676 506, MALAPPURAM DISTRICT.**
3. **THE THIRUNAVAYA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, THIRUNAVAYA (PO),
PIN-676301, TIRUR TALUK, MALAPPURAM DISTRICT.**
4. **THE VIOM NETWORKS LTD.
JOCO CHAMBERS, MANIMALA ROAD, EDAPPALLY (PO)-682 024,
ERNAKULAM DISTRICT.**
5. **AVARANGAL MOIDEENKUTTY,
S/O.KUNHIHAIDRU, AVARANGAL HOUSE, THIRUNAVAYA (PO),
PIN-676301, TIRUR TALUK, MALAPPURAM DISTRICT.**
6. **THE SUB INSPECTOR OF POLICE,
THIRUNAVAYA, THIRUNAVAYA POLICE STATION,
MALAPPURAM DISTRICT - 676 301.**

**R1,2 & 6 BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA
R3 BY SRI.C.E.UNNIKRISHNAN, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - A TRUE COPY OF THE NOTICE OF THE ACTION COMMITTEE AGAINST THE
INSTALLATION OF MOBILE TOWER DATED NIL.**
- P2 - A TRUE COPY OF THE REPRESENTATION BEFORE THE 3RD RESPONDENT BY
MORE THAN 140 PEOPLE IN THE LOCALITY DATED 26.02.2015**
- P3 - A TRUE COPY OF THE REPRESENTATION FILED BEFORE THE 2ND
RESPONDENT BY THE STUDENTS AND TEACHERS OF G.M.L.P.SCHOOL,
EDAKKULAM DATED NIL.**
- P4 - A TRUE COPY OF THE DECISION OF THE 3RD RESPONDENT DATED
26.02.2015**
- P5 - A TRUE COPY OF THE REPRESENTATION FILED BEFORE THE 2ND
RESPONDENT BY THE TEACHERS AND STUDENTS OF A.M.U.P. SCHOOL,
EDAKKULAM DATED 17.03.2015**
- P6 - A TRUE COPY OF THE REPRESENTATION FILED BEFORE THE 2ND
RESPONDENT BY THE TEACHERS AND STUDENTS OF CHANGAMPALLY
A.M.L.P. SCHOOL EDAKKULAM DATED 17.03.2015**
- P7 - A TRUE COPY OF THE REPRESENTATION FILED BEFORE THE 2ND
RESPONDENT DATED 18.03.2015**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.16472 of 2015

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Dated this the 5th day of June, 2015

JUDGMENT

Alleging reluctance on the part of respondents 2 and 3 to prevent 4th respondent from installing a mobile tower in the 5th respondent's property, the petitioners have come up before this Court.

2. The petitioners are the residents of Tirur taluk in Malappuram district. They are aggrieved by the reluctance on the part of respondents 2 and 3 to prevent the installation of mobile tower by the 4th respondent over the building, numbered as 306 of the Thirunavaya panchayat belonging to the 5th respondent and comprised in R.S No.227/12 of Ward No.18 of the 3rd respondent panchayat.

3. In spite of rejecting the application for installing the mobile tower by the 3rd respondent, the 4th respondent is forcefully attempting to install the tower illegally; it is alleged. The petitioners

further allege that the 4th respondent cannot install the mobile towers unless and until they obtain permit from the 3rd respondent. The people in the area objected the same. There is every likelihood of confrontation between the people and the members of the 4th respondent if the respondents 2 and 3 do not take any action to prevent the installation of the mobile tower by the 4th respondent. According to the petitioners, the reluctance of respondents 2 and 3 to prevent the 4th respondent from illegally installing the mobile tower in the property of the 5th respondent is unjust, illegal, arbitrary and bad in law.

4. I have heard the learned counsel for the petitioners, the learned standing counsel for the respondent municipality and the learned Government Pleader in the matter.

5. It was submitted that through Ext.P4, the committee of the respondent panchayat on 26.2.2015 has decided not to allow the construction of the mobile tower in dispute. The learned counsel for

the petitioners would submit that in spite of the said resolution, the party respondents are trying to install the mobile tower.

As the respondent panchayat has not granted permission to erect the mobile tower as alleged, the writ petition is disposed of directing the second respondent to ensure that no mobile tower is erected by the 4th respondent over the property of the 5th respondent unauthorisedly.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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