

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 21381 of 2012 (W)

PETITIONER(S):

**INDUS TOWERS LTD.,
CIRCLE OFFICE AT: VANKARATH TOWERS, 8TH FLOOR, NH-47,
PALARIVATTOM, KOCHI - 24,
REPRESENTED BY ITS HEAD-LEGAL, PREMAKRISHNAN NAIR.**

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE,
KADUTHURUTHY, KOTTAYAM DISTRICT.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
KADUTHURUTHY, KOTTAYAM DISTRICT.**
- 3. THE DISTRICT POLICE CHIEF,
KOTTAYAM.**
- 4. NEEZHOOR GRAMA PANCHAYAT,
PANCHAYAT OFFICE, NEEZHOOR P.O.,
KOTTAYAM DISTRICT - 686 612,
REPRESENTED BY ITS SECRETARY.**
- 5. JOSEPH,
S/O.JOHN, MANGALATHUKAROTU HOUSE, KATTAMPACK P.O.,
NEZHOOR, KOTTAYAM DISTRICT - 686 612.**
- 6. JOHN M.J.,
MANGALATHUKAROTU HOUSE, KATTAMPACK P.O., NEZHOOR,
KOTTAYAM DISTRICT - 686 612.**
- 7. RAJU MON JOHN,
KANJIRATHUTHUNGAL HOUSE, KATTABAKKU P.O., NEZHOOR,
KOTTAYAM DISTRICT - 686 612.**
- 8. ELSAMMA RAJU,
KANJIRATHUTHUNGAL HOUSE, KATTAMPACK P.O., NEZHOOR,
KOTTAYAM DISTRICT - 686 612.**

msv/

WP(C).No. 21381 of 2012 (W)

9. SHINE JOHN,
KANJIRATHUTHUNGAL HOUSE, KATTAMPACK P.O., NEZHOOR,
KOTTAYAM DISTRICT - 686 612.
10. SHANI SHINE,
KANJIRATHUTHUNGAL HOUSE, KATTAMPACK P.O., NEZHOOR,
KOTTAYAM DISTRICT - 686 612.
11. GEORGE KURIEN THADATHIL,
KATTAMPACK P.O., NEZHOOR, KOTTAYAM DISTRICT - 686 612.
12. KUTTAYI,
POOCHEDIYIL HOUSE, KATTAMPACK P.O., NEZHOOR,
KOTTAYAM DISTRICT - 686 612.
13. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
KERALA GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
14. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF COMMUNICATION AND IT,

* ADDITIONAL R15 IMPEADED

15. ELECTRICAL INSPECTOR,
DEPARTMENT OF ELECTRICAL INSPECTORATE,
KERALA GOVERNMENT, STAR JUNCTION, KOTTAYAM SOUTH P.O.,
PIN - 686 039.

* ADDL. R15 IS IMPEADED AS PER ORDER DATED 12/10/2012 IN IA 13833/2012.

** ADDITIONAL R16 & R17 IMPEADED

16. KERALA STATE POLLUTION CONTROL BOARD,
REP. BY ITS SECRETARY, DISTRICT OFFICE,
ST.ANTONY'S COMPLEX, NAGAMPADOM, KOTTAYAM -1.
17. ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, ST.ANTONY'S COMPLEX, NAGAMPADOM,
KOTTAYAM-1.

** ADDL. R16 & R17 ARE IMPEADED AS PER ORDER DATED 30.09.2013 IN
IA 9820/2013.

msv/

WP(C).No. 21381 of 2012 (W)

* **ADDITIONAL R18 IMPEADED**

**18. THE SECRETARY ,
INFORMATION TECHNOLOGY (B) DEPARTMENT,
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM -695 001.**

* **ADDL. R18 IS IMPEADED AS PER ORDER DATED 06/08/2014 IN IA 10419/2014.**

**R1-R3,R13 & R15 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R4 BY ADV. SRI.P.SANKARANKUTTY NAIR
SRI.K.SANDESH RAJA
KUM.VIDYA MENON**

**R6-12 BY ADV. SRI.S.MANU
R14 BY ADV. SRI.N.NAGARESH, ASG OF INDIA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1. COPY OF CERTIFICATE OF INCORPORATION ISSUED BY THE ASSISTANT REGISTRAR OF COMPANIES, NATIONAL CAPITAL TERRITORY OF DELHI AND HARYANA.

EXHIBIT P2. COPY OF CERTIFICATE FOR COMMENCEMENT OF BUSINESS ISSUES BY THE ASSISTANT REGISTRAR OF COMPANIES, NATIONAL CAPITAL TERRITORY OF DELHI AND HARYANA.

EXHIBIT P3. COPY OF REGISTRATION CERTIFICATE NO.177/2008 DATED 10.01.2008 ISSUED BY THE MINISTRY OF COMMUNICATIONS & I.T. DEPARTMENT OF TELECOMMUNICATION.

EXHIBIT P4. COPY OF FRESH CERTIFICATE OF INCORPORATION CONSEQUENT UPON CHANGE OF NAME ISSUED BY THE DEPUTY REGISTRAR OF COMPANIES, NATIONAL CAPITAL TERRITORY OF DELHI AND HARYANA.

EXHIBIT P4(a). TYPED COPY OF EXHIBIT P4.

EXHIBIT P5. COPY OF COMMUNICATION SEND BY THE DIRECTOR (CS III) OF THE MINISTRY OF COMMUNICATIONS AND IT, DEPARTMENT OF TELECOMMUNICATIONS, NEW DELHI.

EXHIBIT P6. COPY OF NO OBJECTION CERTIFICATE DATED 23.04.2007 ISSUED BY THE 4TH RESPONDENT PANCHAYAT.

EXHIBIT P7. COPY OF ORDER NO.B3.2884/08/EIK DATED 04.02.2009 PASSED BY ELECTRICAL INSPECTOR, KOTTAYAM.

EXHIBIT P8. COPY OF REPRESENTATION DATED 30.08.2012 SUBMITTED BEFORE 1ST RESPONDENT.

EXHIBIT P9. COPY OF POSTAL RECEIPTS.

RESPONDENT(S)' EXHIBITS:

EXT.R7(a) SERIES: TRUE COPY OF PHOTOGRAPHS SHOWING THE LOCATION OF THE TOWER AND THE 7TH RESPONDENTS HOUSE.

EXT.R7(b):TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE DISTRICT COLLECTOR DTD.18.6.2009.

EXT.R7(c): TRUE COPY OF THE REPRESENTATION DTD.21.8.2009 SUBMITTED BEFORE THE DISTRICT COLLECTOR.

Msv/

WP(C).No. 21381 of 2012 (W)

-
- EXT.R7(d): TRUE COPY OF THE NEWS ITEM PUBLISHED BY DEEPIKA DAILY
DTD.3.6.2009.
- EXT.R7(e): TRUE COPY OF THE NEWS ITEM PUBLISHED BY JANMABHUMI DAILY
DTD.3.6.2009.
- EXT.R7(f): TRUE COPY OF THE REPORT PUBLISHED BY MALAYALA MANORAM DAILY
DTD.21.8.2009.
- EXT.R7(g): TRUE COPY OF THE NEWS ITEM IN JANMABHUMI DAILY DTD.29.9.2009.
- EXT.R7(h): TRUE COPY OF THE NEWS PUBLISHED BY MATHRUBHUMI DAILY ON
29.9.2012.
- EXT.R7(i): TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 30.9.2009.
- EXT.R7(j): TRUE COPY OF THE REPRESENTATION DTD.6.6.2010.
- EXT.R7(k): TRUE COPY OF THE LETTER FROM THE ELECTRICAL INSPECTOR.
- EXT.R7(l): TRUE COPY OF THE LETTER DTD.28.7.2010 OF SECRETARY, NEZHOOOR
PANCHAYAT.
- EXT.R7(m): TRUE COPY OF THE LETTER ISSUED BY THE SECRETARY, NEEZHOOOR
GRAMA PANCHAYAT TO THE PETITIONER COMPANY.
- EXT.R7(n): TRUE COPY OF THE LETTER DTD.16.12.2011 ISSUED BY THE TAHSILDAR
TO THE 7TH RESPONDENT.
- EXT.R7(o) SERIES: PHOTOGRAPHS SHOWING THE EARTHING.
- EXT.R7(p): TRUE COPY OF THE LETTER DTD.4.12.2012 ISSUED BY THE INFORMATION
OFFICER OF DISTRICT OFFICE OF THE POLLUTION CONTROL BOARD.
- EXT.R7(q): TRUE COPY OF THE CIRCULAR DTD.14.8.2006 ISSUED BY THE STATE
POLLUTION CONTROL BOARD.
- EXT.R7(r): TRUE COPY OF THE REPLY DTD.10.12.2012 ISSUED TO THE 7TH
RESPONDENT BY THE PANCHAYAT SECRETARY.
- EXT.R7(s): TRUE COPY OF THE ORDER DTD.1.7.2013 BY THE REVENUE DIVISIONAL
OFFICER, PALA.
- EXT.R4(a): TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE
4TH RESPONDENT DTD.23.4.2007.

Msv/

WP(C).No. 21381 of 2012 (W)

**EXT.R4(b): TRUE COPY OF THE OCCUPANCY/USE CERTIFICATE DTD.25.3.2013
ISSUED BY THE 4TH RESPONDENT.**

EXT.R15(a): TRUE COPY OF THE PROCEDURE.

PETITIONER(S)' ANNEXURES:

ANNEXURE I: TRUE COPY OF THE REPORT DTD.7.6.2013.

ANNEXURE II: TRUE COPY OF THE ORDER DTD.22.10.2013.

IA.5554/2014 IN WP(C).No. 21381 of 2012 (W)

ANNEXURE I: TRUE COPY OF THE REPORT OF THE ELECTRICAL INSPECTOR.

//TRUE COPY//

P.S.TO JUDGE

Msv/

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.21381 of 2012

Dated this the 14th day of October 2015

J U D G M E N T

Shaffique, J

This writ petition is filed seeking police protection to the petitioner and their workers for carrying out maintenance/upgradation works of an existing mobile telecommunication tower. It is submitted that there is obstruction from the persons residing in the locality. Though application has been submitted to the police for necessary police protection, no action has been taken in the matter.

2. Counter affidavit has been filed by the respondents indicating that on account of such upgradation, there is every chance of disturbance in the supply of electricity in the neighbouring locality and therefore unless appropriate steps are taken to ensure that there is no disturbance of electric supply, petitioner should not be granted any relief, as prayed for.

3. As matters stand now, we do not think that it is necessary for us to go into the merits or demerits of the

contentions raised by either of the parties. Now, the Government have formed a Committee known as District Telecom Committee for considering such objections. It is for the authority to consider the issues raised by either parties and provide necessary police protection, if necessary.

Under such circumstances, this writ petition is disposed of reserving the right of the petitioner to approach the DTC, who shall consider the matter after notice to all affected parties including the private respondents herein and take appropriate decision in the matter. The DTC shall dispose of the matter within a period of three months from the date of receipt of the application submitted by the petitioner.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)
(sd/-)
(A.M.SHAFFIQUE, JUDGE)

True Copy

PA to Judge

jsr/15/10/2015

