

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.40990 of 2015

-
17.12.2015

Between:

M/s.Chennai Network Infrastructure Ltd., Secunderabad

.. Petitioner

and

The Nellore Municipal Corporation, Nellore

.. Respondents

Counsel for the petitioner: Mr.Ghanta Rama Rao for Mr.Ghanta Sridhar

Counsel for the respondent: --

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The Court made the following:

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ORDER:

The petitioner, which is incorporated under the Companies Act, 1956, and engaged in the business of providing of Passive Telecom Site Infrastructure Service to Cellular mobile telephone operators in India (telecom service providers), who are licensees under Section 4 of the Indian Telegraph Act, 1885, filed this writ petition feeling aggrieved by the action of the respondent in seeking to interfere with installation of certain additional telephone equipment to the existing tower in order to upgrade the telecommunication services.

It is the pleaded case of the petitioner that it has obtained 'No Objection Certificate' (NOC) from Navalakulathota Gram Panchayat, Nellore Mandal, for installation of telecommunication tower at plot No.245C/A of Navalakula Garden, Kashturinagar, Nellore, on 28.06.2009 and accordingly, the tower was installed, that the said Gram Panchayat has got merged in the respondent Corporation subsequently, and that when the petitioner was preparing to install certain additional telephone equipment for increasing the capacity of the tower for upgrading the services, the respondent has been trying to interfere with the said work.

Mr.Ancha Panduranga Rao, learned standing counsel for Municipal Corporations (AP) appearing for the respondent, submitted that when the local people have resisted the work being executed by the petitioner, the respondent has made enquiries in order to know whether the petitioner has obtained proper permission or not and that so far, no action has been taken to prevent the petitioner from executing the work to the existing tower.

The respondent, being the successor to the Gram Panchayat, which is stated to have issued NOC, is bound by the said NOC. Unless the respondent initiates any proceeding under the provisions of the extant statutory enactment, even if it is competent to do so, it

cannot interfere with the petitioner's right to use the telecommunication tower or making improvements thereto.

Therefore, the respondent is restrained from causing afore-noted interference without initiating any proceeding as per law.

Subject to the above direction, the Writ Petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P.No.52912 of 2015 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

17th December, 2015
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