

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.13383 of 2011

ORDER:

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This writ petition is filed to declare the action of the respondents 2 to 4 in allowing the 5th respondent to erect of Cell Tower at the site of Potluri Sai Babu s/o.Raghavendra Rao, beside H.No.4-251, Uppuluri Rama Kotaiah Street, Kanuru Vijayawada as illegal and arbitrary.

The case of the petitioner is that he is a resident of Kanuru village, Penamaluru Mandal, Krishna District. The 5th respondent has taken site belonging to one Suri Babu, which is located in the middle of residential area for construction of Cell Tower and without taking any permission from gram panchayat authorities and without taking no objection from the neighbouring building owners as contemplated in G.O.Ms.No.183,

dated 27-02-2008 has erected the Cell Tower and they also installed 30 KV Heavy Generator for operation of the Cell Tower. It is also stated that over 500 families are living in the village and said Cell Tower is located densely populated area and there are schools located within 500 meters of said Cell Tower. There is also a Government Ayurvedic hospital within 150 meters and from Cell Tower, Ramatulasi Trust Hospital within 250 meters is located. The petitioner and others made representations to the respondents 2 to 4 for taking action. The 3rd respondent gave a certificate dated 08-01-2011 that the

5th respondent has not obtained any permission for erection of Cell Tower in the middle of the village. The petitioner also gave representation to the 4th respondent not to release power to 5th respondent for the purpose of Cell Tower.

It is further stated that Cell Tower releases electromagnetic radiation waves, which cause serious health hazards like cancer etc., Aggrieved by the action of respondents in allowing 5th respondent to erect Cell Tower at the site of Potluri Sai Babu s/o.Raghavendra Rao, beside H.No.4-251, Uppuluri Rama Kotaiah Street, Kanuru Vijayawada contrary to G.O.Ms.No.183, Municipal Administration and Urban Development Department, dated 27-02-2008, the present writ petition is filed.

Counter is filed by the 3rd respondent stating that Kanuru is a major Gram Panchayat with a population of 40,000/-. The 5th respondent has not taken any permission from the 3rd respondent-Gram Panchayat for construction of Cell Tower in the site in question. The Government has issued orders in G.O.Rt.No.1150 Panchayat Raj and Rural Development Department, dated 14-08-2007 to accord permission to M/s.Reliance Communications Limited, who is the 5th respondent for installation of Cell Towers in the village under the administrative control of Gram Panchayats subject to condition laid down in the G.O. In condition No.IV, it is specified that they should inform of any such installation to the local authority. The 5th respondent has not informed the same to the 3rd respondent-Gram Panchayat. As such, the 5th respondent has violated the condition No.IV and rules specified in the said G.O. It is also stated that the 5th respondent also completed land based Cell Tower in site in question. It is stated that G.O.Ms.No.183, Municipal Administration and Urban Development Department, dated 27-02-2008 is not applicable to the Municipal Corporations, Municipalities and said G.O. is not applicable to the present case and sought for dismissal of the writ petition.

Though notice is served to 5th respondent, there is no appearance and no counter is filed by 5th respondent.

Learned counsel for the petitioner submits that G.O.Ms.No.334,

Panchayat Raj and Rural Development Department, dated 09-10-2012 is amended by G.O.Ms.No.75 Panchayatraj and Rural Development, dated 29-07-2015 is applicable to the case on hand and even as per the said G.O. unless the 5th respondent satisfy the conditions laid down in the said G.O., he cannot erect cell tower.

It is not in dispute that G.O.Ms.NO.334 is amended by G.O.Ms.No.75. This Court granted interim direction while admitting the writ petition and the same is in operation as on today. The 3rd respondent-Grampanchayat has stated that the 5th respondent has not informed to the Grampanchayat for erection of Cell Tower.

In view of above facts and circumstances of the case, the 3rd respondent can take appropriate action in terms of G.O.Ms.No.334, dated 09-10-2012 as amended by G.O.Ms.NO.75 dated 29-07-2015, after issuing notice to the petitioner and the 5th respondent. Till then, interim order granted by this Court shall be in operation.

Accordingly, the Writ Petition is disposed of. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

A.RAJASHEKER REDDY,J

29-10-2015

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