

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

W.P.No.1151 of 2015

and

M.P.No.1 of 2015

Brindavan Nagar Residents Welfare
Association, Door No.81A/39A
5th Street, Brindavan Nagar
Ernavur, Chennai 600 057
rep.by its President M.Sridharan ...Petitioner
vs.

1. Chennai Municipal Corporation rep.
by its Commissioner, Ripon Building
Chennai 600 003.

2. Commissioner of Police
Chennai Metro City
Vepery
Chennai 600 007.

3. The Regional Manager
GTL Infrastructure Limited
Old No.34/1DL/New No.403 L
7th Floor, Samson Towers
Pantheon Road
Egmore, Chennai 600 008.

4. Mrs.M.Radha

5. M/s.Chennai Network Infrastructure
Limited, 34/1 DL, New No.403L
7th Floor, Samson Towers
Pantheon Road
Egmore, Chennai 600 008.
rep.by its Authorised Signatory
Mr.M.Eswaravelan

.. Respondents

R5- impleaded as per order of Court
dated 21.06.2016 in WMP No.7774
of 2016 in W.P.No.1151 of 2015.

Prayer: Writ Petition under Article 226 of the Constitution
of India, praying to issue a writ of mandamus, directing
respondents 1 and 2 to take appropriate action for removal of
the damaged tower belonging to the third respondent and standing

in the premises of the fourth respondent under a lease, namely at Door No.102/58A at Brindavan Nagar, I Main Road, Ernavur, Chennai 600 057 within the jurisdiction of Chennai City Corporation Ward No.4 in Area No.1, Tiruvottiyur within the police limits of Ennore under the control of second respondent.

For Petitioner : Mr.K.Chairman Selvaraj

For Respondents : Mr.A.Nagarajan for R1
Mr.R.Ravichandran
AGP for R2
Mr.C.Sakthi Manikandan for R3
Mr.B.John Paul for R5

ORDER

Heard the learned counsels appearing on behalf of the petitioner, as well as the respondents.

2. This writ petition has been filed praying that this Court may be pleased to issue a WRIT OF MANDAMUS to direct the first and the second respondents to take appropriate action, for the removal of the damaged tower belonging to the third respondent and erected in the premises of the fourth respondent.

3. It is has been stated that the petitioner is a Residents Welfare Association of Brindavan Nagar, Ernavoor, Chennai. The main contention of the learned counsel appearing on behalf of the petitioner is that the ground based tower, erected by the fifth respondent, who is said to be the owner of the tower, is in a dilapidated condition. The telecom tower erected by the fifth respondent is likely to collapse and cause serious injuries to the persons residing in the area. It could also cause serious damage to the nearby structures, which are owned and used by the members of the petitioner-Association.

4. Even though the petitioner-Association had made several complaints to the Ernavoor police, no action has been taken by them to register the complaints and to take appropriate action against the owner of the tower and the owner of the premises, in which the tower has been erected.

5. In the counter affidavit filed on behalf of the first respondent-Corporation, dated 24.06.2016, it has been stated that the licences for the erection of the cell phone towers are given by the Department of Telecommunications, Ministry of Communication and Information Technology, Government of India. It has been further stated that the Greater Chennai Corporation has not issued any licence for the erection of the cell phone tower in question and therefore, no action can be taken for the cancellation of the licence, by the first respondent-Corporation, with regard to the licence issued by the Department of Telecommunications, Ministry of Communication and Information Technology, Government of India.

6. The learned counsel appearing on behalf of the fifth respondent had submitted that the fifth respondent is the owner of the cell phone tower in question. The said tower has been erected in the premises of the fourth respondent, after having obtained the necessary licence from the Department of Telecommunications, Ministry of Communication and Information Technology, Government of India. It has also been stated that the tower in question, is being maintained in a good condition, and that there is no possibility of the tower collapsing and causing injury to the people using the area near the tower. He had further assured that the cell phone tower in question would be maintained in a proper condition. He had further submitted that the Executive Engineer, Zone-I, Corporation of Chennai, had inspected the tower. He had not stated that the tower in question is in a dilapidated state. The learned counsel has alleged that the members of the petitioners-Association are obstructing the fifth respondent from repairing and maintaining the tower in a good condition.

7. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records, this Court finds it appropriate to direct the Executive Engineer, Zone-I, Corporation of Chennai to inspect the cell phone tower in question, erected in the premises bearing Door No.102/58A, Brindavan Nagar, I Main Road, Ernavoor, Chennai in the presence of the petitioner, the fourth and the fifth respondents, within a period of ten days from the date of receipt of a copy of this order. If the Executive Engineer, Zone I, Corporation of Chennai finds any faults either in the erection of the tower or the structure on which it has been erected, such faults are to be pointed out to the fifth respondent who shall rectify the same, forthwith. It is also made clear that the members of the petitioner-Association shall not precipitate the matter, by obstructing the maintenance of the tower in question, by the fifth respondent.

8. The writ petition is disposed of, with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vj2

To

1. Commissioner of Police
Chennai Metro City
Vepery
Chennai 600 007.

2. The Executive Engineer
Zone I - Corporation of Chennai
No.276, T.H.Road
Thiruvottiyur, Chennai 600 019.

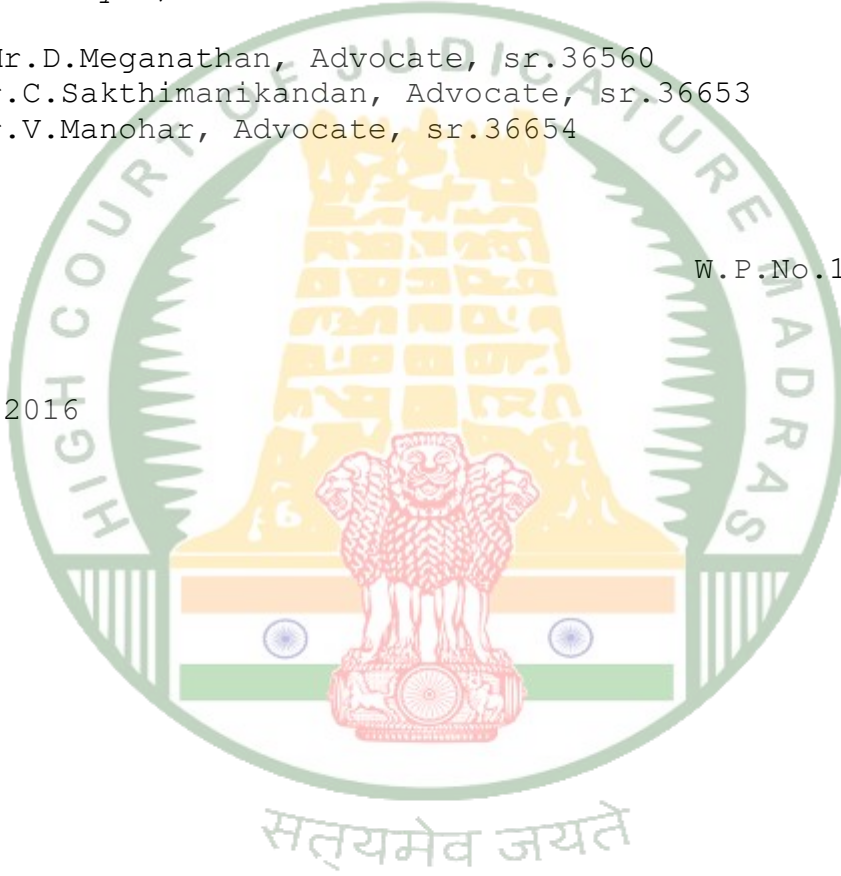
2 ccs to Mr.D.Meganathan, Advocate, sr.36560

1 cc to Mr.C.Sakthimanikandan, Advocate, sr.36653

1 cc to Mr.V.Manohar, Advocate, sr.36654

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kra 19.07.2016



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