



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.06.2018

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

Review Application No.147 of 2016 &
in W.P.No.33040 of 2016

M.Nijamudeen

... Petitioner

v.

1. The District Collector
O/o. the District Collector
Coimbatore District, Coimbatore
2. The Revenue Divisional Officer
O/o. the Revenue Divisional Officer
Coimbatore District, Coimbatore
3. The Tahsildhar
Mettupalayam Taluk, Mettupalayam
4. The Executive Officer
Karamadai Town Panchayat
O/o the AKaramadai Town Panchayat
Karamadai
5. Govindaraj
6. Anandkumar
7. Tata Docomo
Rajan's Proprieties
Opposite Kidney Centre
Puliyangulam, Coimbatore

... Respondents

Review Application filed under Order 47 Rule 1 & 2 read with Section 114 of Civil Procedure Code praying to review the order of this court dated 21.09.2016 in W.P.No.33040 of 2016.

W.P.No. 33040/2016:

Petition filed under Article 226 of the constitution of India seeking for the issuance of a Writ of Mandamus directing the respondents herein to remove the nuisance namely the mobile tower and the Generator erected in Door No. 289 Main Road, Karamadai Coimbatore District 641 041.



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For Petitioner : Mr.G.Karthkeyan
For Respondents : Mr.R.P.Prathap Singh,
Govt. Advocate - for R1 to R4
Mr.B.Sundarapandian - for R5
No appearance - for R6 & R7

ORDER

Heard Mr.G.Karthkeyan, learned counsel appearing for the petitioner, Mr.R.P.Prathap Singh, learned Government Advocate, appearing for the respondents 1 to 4 and Mr. Mr.B.Sundarapandian, learned counsel appearing for the 5th respondent.

2. The learned counsel appearing for the petitioner pointed out that the prayer sought for by the petitioner is only to consider the petitioner's representation alleging that there is nuisance caused to him on account of the mobile phone tower erected by the respondents 5 and 6 in their property.

3. The writ petition was disposed of by following the decision of the Division Bench in the case of K.R.Ramaswamy @ Traffic Ramaswamy v. The Secretary, Department of Telecommunications and others in W.P.No.24976 of 2008

4. The learned counsel for the petitioner pointed out that it may be true that this court has considered various aspects in the said decision, more particularly, pertaining to the radiation from the mobile phone towers. The Central Government issued guidelines for roof tower etc.. But, the petitioner's grievance is very simple, as they alleged nuisance on account of mobile phone tower and they have genuine apprehension as regards structural stability of the building, on which the tower has been erected. The learned counsel produced certain photographs of the building owned by the petitioner, which shows that cracks have been developed in the building because of erection of the tower by the 7th respondent in the building owned by the respondents 5 and 6, which is the adjacent property of the petitioner's building.

5. In any event, it has to be decided by the local authority, viz., the Executive Officer of the Karamadai Town Panchayat.

6. Accordingly, the Review Application stands disposed of by directing the 4th respondent, viz., the Executive Officer of the Karamadai Town Panchayat, Karamadai, to conduct an inspection of the building owned by the respondents 5 and 6 as well as the petitioner's building and after notice to the



parties, make assessment of the structural stability whether there is any damage caused to the neighbouring building on account of the tower and pass speaking order, on merits and in accordance with law. While inspection is being conducted, the 7th respondent, who has put up the tower, should also be put on notice. The above direction shall be complied with, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

Rj
To

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Karamadai Town Panchayat
O/o the AKaramadai Town Panchayat
Karamadai
- +1 CC to Mr.G. Karthikeyan, Advocate sr 39457
+1 CC to Mr.B. Sundarapandiyan, Advocate sr 31660.
+1 CC to The Govt.Pleader sr 59569.

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EV(CO)
SP(02/07/2018)