

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2016

CORAM

THE HON'BLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.25718 of 2016

and

W.M.P.No.22067 of 2016

Indus Towers Limited
rep.by its Authorized Signatory
No.5, ESPEE IT Park, V Floor
Jawaharlal Nehru Road
Ekkatuthangal
Chennai 600 097. ...Petitioner

vs

1. Tamil Nadu Generation and Distribution Corporation Limited
rep.by its Chairman
A Public Sector Undertaking and established under the provisions of the Companies Act, 1956
having its office at 144, Anna Salai
Chennai 600 002.
2. The Superintendent Engineer
Coimbatore Electricity Distribution Circle/South
Sulur Taluk.
3. The Executive Engineer
TANGEDCO
Coimbatore Electricity Distribution Circle/South
Arasur, Muthugoundenpudur (Post)
Kurumbapalayam, Sulur Taluk.
4. The Assistant Engineer
TANGEDCO
Coimbatore Electricity Distribution Circle/South, Arasur
Muthugoundenpudur (Post)
Kurumbapalayam, Sulur Taluk. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying this Court for the issuance of a writ of mandamus to direct the respondents to provide electricity connection to its mobile phone tower at No.123/B, Nadu Arasur, comprised in Survey No.437, Arasur Village, Palladam Taluk, Coimbatore District on the basis of its application dated 23.04.2015.

For Petitioner ... Mr.P.V.Balasubramaniam

For Respondents ... Mr.S.K.Rameshwar
Standing Counsel for TNEB

ORDER

The petitioner is a registered infrastructure provider for Telecom Service Providers by the Government of India under the Indian Telegraphic Act. As per the requirement, to establish a tower at Arasur, at No.123/B, Nadu Arasur comprised in Survey No.437, Arasur Village, Palladam Taluk, Coimbatore District was taken on lease by the petitioner from its owners. The petitioner already erected the tower in the said property and applied for electricity connection in the said tower. However, no decision has been taken regarding the connection. Hence, the petitioner has come before this Court by way of this writ petition.

2. Heard Mr.P.B.Balasubramaniam, learned counsel appearing for the petitioner and Mr.S.K.Rameshwar, learned Standing counsel appearing on behalf of the respondents.

3. Learned Standing Counsel appearing on behalf of the respondents, by relying upon para No.4 of the counter affidavit filed by the respondents submitted that one N.Sundaram, who is the adjacent land owner of the property comprised in Survey No.437, has filed the suit in O.S.No.165 of 2012 against the petitioner's lessor Mrs.Thulasiammal before the District Munsif Court, Palladam, which has now been transferred to District Munsif Court, Coimbatore, seeking permanent injunction restraining the respondents herein from in any manner interfering with the said Sundaram's peaceful enjoyment of the suit property by way of erecting tower, without following the norms. He had further stated that the said N. Sundaram, issued a legal notice on 21.05.2012 objecting, giving connection to the petitioner's property. Therefore, he contended that the respondents could not give electricity connection to the petitioner's property.

4. It is not the case of the said N.Sundaram that the petitioner is erecting towers in his land where as his case is that, he is going to make construction in his property, which is adjacent to the property where the petitioner had already erected the Mobile Phone Tower and in case of making construction, the tower erected by the petitioner may cause problem to them and without following the norms the tower has been erected in the margin of the lessor's property.

5. A perusal of the plaint as well as the notice dt.21.05.2012 issued by the said N.Sundaram, would reveal that there is nothing to prohibit the petitioner from erecting the tower as the tower is to be erected in the petitioner's lessor - Mrs.Thulasiammal's property comprised in Survey No.437. As on date, neither there is an injunction against the lessor or the petitioner before the Civil Court nor there is any other prohibition against the petitioner from getting electricity connection and therefore in the absence of any prohibition or legal bar, the respondents are duty bound to give electricity connection.

6. Inasmuch as the learned Standing Counsel for the respondents stated that so far no application has been submitted by the petitioner to the respondents, it is appropriate to direct the petitioner to submit an application before the appropriate authority, seeking electricity connection to the Mobile Cell Phone Tower, within one week from the date of receipt of a copy of this order. On such reception of representation/application, the third and fourth respondents shall give electricity connection to the petitioner's property at No.123/B, Nadu Arasur comprised in Survey No.437, Arasur Village, Palladam Taluk, Coimbatore District, within 15 days, thereafter.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected WMP No.22067 of 2016 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Chairman
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Distribution Corporation Limited
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+1 cc to M/s.BFS legal Advocate sr.45075

+1 cc to Mr.S.K.Raameshuwar Advocate sr 44729

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