

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11123 OF 2017

Bharti Airtel Limited .. Petitioner
Versus
The State of Maharashtra & ors .. Respondents

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Mr.Amit Khairwar i/b M/s.D.H.Law Associates for the petitioner.
Mr.P.G. Sawant, AGP for the State.

CORAM: DR. MANJULA CHELLUR, CJ. &
M.S.SONAK, J.
DATED: 30th OCTOBER, 2017

P.C.:-

- 1 Heard learned counsel for the petitioner.
- 2 We have gone through the contents of the petition as well as the annexures, especially Annexure-A at page nos.21 and 22. The petitioner is before this Court seeking following prayers :-

- (a) This Hon'ble Court do issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate writ or order directing the Respondent No.1 to issue necessary directions to the Respondents 2 and 3 and all persons claiming by, through or under them to allow the Petitioner to set up telecommunication network in rural areas without treating the same as change of user of agricultural land.

- (b) This Hon'ble Court do issue a Writ of Certiorari or a writ in the nature of certiorari or any other appropriate writ, order of direction calling for the records and proceedings pertaining to the impugned Notices Exhibit 'A' dated 22/11/2016 and 29/11/2016 thereto and after going through the legality or otherwise do quash the same.
- (c) That pending the hearing and final disposal of the Petition, the Respondents, their servants, agents or any person claiming by through or under them be restrained by an order and injunction of this Hon'ble Court from in any manner demolishing and/or sealing and/or rendering inoperative in any manner whatsoever, any of the sites of the Petitioner in their respective jurisdiction or from in any manner interfering with the business of the Petitioner pursuant to the Notices Exhibit 'A' hereto or otherwise;

3 In the first prayer, the petitioner seeks an *omnibus* direction in favour of the petitioner that there shall not be any insistence of seeking permission for change of land use, in case the installation of the petitioner's equipment requires such change of land user. So far as prayer (b) is concerned, it is with regard to page nos.21 and 22 where two notices are issued to the petitioner asking him to pay penalty for illegal user of agricultural land without converting the use of the land or permission to change the user of the land. Apparently, the notices are issued in terms of Maharashtra Land Revenue Code. Maharashtra Land Revenue Code has a mechanism within itself where the aggrieved party can file Appeal before the concerned appellate authority, and thereafter, two stages of revision are provided. In all probability, to overcome Annexure-A at page nos.21 and 22, they have

introduced prayer clause (a) in order to bring the litigation under Article 226 of the Constitution of India.

4 We are of the opinion that the main object in filing the writ petition is to see that they will not pay amounts under Annexure-A at page nos.21 and 22. Therefore, Writ Petition is drafted in a way as if their main contention is with regard to prayer clause (a). Even otherwise, looking at prayer (a), we are of the opinion such an *omnibus* positive direction sought by the petitioner, cannot be granted without even the petitioner approaching the concerned authorities seeking for a permission to change the use of the land. They are before this Court practically to get over the problem of seeking change of land user whenever it is required for the purpose of installation of towers by the petitioner. There cannot not be such a permission in advance without even knowing which area or on which site such permission is sought. There cannot be such a vague prayer. Further, this Court cannot entertain such prayer. In the light of above reasoning, we decline to intervene and the petition is dismissed.

(M.S.SONAK, J)

(CHIEF JUSTICE)