

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.3961 of 2017

K. Shanmugam

.. Petitioner

Vs.

1. The District Collector,
Thiruvallur District,
Pin 602 001.

2. The Block Development Officer,
IkkaduThiruvallur,
Thiruvallur District,
Pin 602 021.

3. The Manager (Maintenance),
M/s.Ascend Telecom Infrastructure Pvt.Ltd,
#54/33, SH, 55 Sripuram Colony,
Viralur Rajeswari Colony,
St.Thomas Mount, Chennai 600 016.

4. G.Mani

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, to direct the 1st respondent to remove the cell phone tower, which is erected in the place of fourth respondent comprising in Survey No.93/1 situated at 131, Dr.Ambethkar Street, 95, Ramapuram, Putlur Post, Thiruvallur District Pin-602025 and consequently to direct the first respondent to take action against the erred officers who gave permission to the above said cell phone tower and to take further action against the third respondent for obtaining permission to install the cell phone tower based on the false documents.

For Petitioner : Mr.R.Munniyapparaj

For R1 and R2 : Mr.R.A.S.Senthilvel,
Additional Government Pleader

For R3 and R4 : No appearance

ORDER

The petitioner has come forward to file the present writ petition on the ground that unauthorised cell phone tower put up in the land assigned to the fourth respondent is causing health hazards.

2. Heard the learned counsel appearing for the petitioner.

3. The learned counsel appearing for the third respondent would submit that it is only an extension of personal dispute between the petitioner and the fourth respondent, who is none other than his brother. Further, it has been stated that there is no commercial activity going on since the cell phone service falls under the category of essential service. There is no material to show that the sale deed executed in favour of the fourth respondent prevents such an activity. Therefore, this activity is only a service activity. Apart from that, it has been stated that the third respondent is having valid license issued by various Government authorities.

4. This Court cannot conduct a roving enquiry. There is no material to hold that the cell phone tower is causing health hazards to the petitioner and his family. The petitioner has not disclosed the relationship in the affidavit filed. It cannot also be said that any commercial activity is involved. The activity is only a service activity providing mobile services to the public. The Mobile Telecommunication has come under the purview of "Essential Services". Even otherwise, there is no bar in law. The petitioner having allowed the respondents 3 and 4 to put up the tower cannot thereafter file this writ petition.

5. In such view of the matter, the writ petition is dismissed. However, the dismissal of this writ petition will not stand in the way of the petitioner approaching the appropriate authorities. As and when such request is made, the authorities shall look into the same and take action as per law. No costs.

Sd/-
Asst. Registrar (CS V)

/true copy/

Sub Asst. Registrar

asi/cse

To

1. The District Collector,
Thiruvallur District, Pin 602 001.

2. The Block Development Officer,
IkkaduThiruvallur,
Thiruvallur District, Pin 602 021.

+1cc to Mr.A.M.Venkatakrisnan,Advocate sr.42728

+1cc to Mr.M.Rajentran,Advocate sr.42407

+1cc to Government Pleader sr.42758

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ss(3/7/2017)



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