

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 13.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1258 of 2017
and
W.M.P(MD)No.1048 of 2017

Kaveri

.. Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Revenue Divisional Officer,
Aruppukkottai,
Virudhunagar District.
3. The Commissioner,
Aruppukkottai Municipality,
Aruppukkottai,
Virudhunagar District.
4. The Tahsildar,
Aruppukkottai Taluk Office,
Aruppukkottai,
Virudhunagar District.
5. The Inspector of Police,
Town Police Station,
Aruppukkottai,
Virudhunagar District.
6. K.K.Murugan
7. M/s.ATC Telecom Infrastructure Private Ltd.,
No.45, Dhamotharan Street,
T.Nagar,
Chennai - 17.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 4 to prevent the seventh respondent from erecting a Cell Phone tower at New No.34, Old No.9(4), Chithiram Chokkalingam Street, Chockalingapuram, Aruppukkottai, Virudhunagar District.



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For Petitioner	: Mr.B.S.Meltiue.
For R-1, R-2, R-4 & R-5	: Mr.T.S.Mohammed Mohideen, Additional Government Pleader.
For R-3	: Mr.N.Dilip Kumar, Standing Counsel.
For R-6	: No appearance.
For R-7	: Mr.M.Karal Marx.

O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

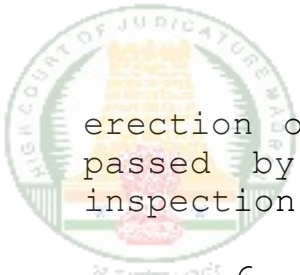
The petitioner filed this writ petition with a grievance that there is an attempt to permit the seventh respondent to erect a cell-phone tower on the superstructure put up by the sixth respondent at Door No.34, Old Number 9(4), Chithiram Chokkalingam Street, Chockalingapuram, Aruppukkottai, Virudhunagar District.

2. The writ petition is filed primarily on the ground that the sixth respondent constructed a building in violation of the building permit issued to him. According to the petitioner, the building is structurally unsound and as such, it would not be possible to erect the cell-phone tower. The said contention is rebutted by the seventh respondent by filing counter-affidavit. According to the seventh respondent, Stability Certificate was obtained from the Technical Experts and only thereafter, action was taken to install the cell-phone tower.

3. We have heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1, 2, 4 and 5, the learned Standing Counsel for the third respondent and the learned counsel for the seventh respondent.

4. The petitioner has come up with a grievance that the seventh respondent is in the process of installing a cell-phone tower on a building, which is structurally unsound. In short, the objection is confined to the structural stability of the building.

5. We direct the Commissioner, Aruppukkottai Municipality, to inspect the building in question along with the Municipal Engineer. The building should be inspected taking into account the building plan approved by the local body. In case, the building was constructed in accordance with the approved building permit and it is structurally sound, it is open to the local body to grant permission for erection of cell-phone tower. In case, it is made out that the building was constructed in violation of the building permit issued by the sixth respondent and it is structurally unsound, permission shall not be given to erect the cell-phone tower on the premises of the sixth respondent. The question of



erection of cell-phone tower would depend upon the orders to be passed by the Commissioner, Aruppukkottai Municipality, after inspection of the building as indicated above.

6. The writ petition is disposed of with the above direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Virudhunagar District,
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Aruppukkottai,
Virudhunagar District.
5. The Inspector of Police,
Town Police Station,
Aruppukkottai,
Virudhunagar District.

+1cc to M/S. KARAL MARX, Advocate, SR.No.65519.

+1cc to M/S. B.S.MELTIUE, Advocate, SR.No.65394.

+1cc to Special Government Pleader, SR.No.65685.

ORDER MADE IN
W.P (MD) No.1258 of 2017
13.07.2017