

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.38422 of 2017

ORDER :

This writ petition is filed with the following prayer:

“ ...to issue a Writ, order or direction more particularly one in the nature of writ of *mandamus* declaring the inaction of the respondents 1 to 5 authorities in not taking any action in stopping of installation of Reliance Jio Cell Phone Tower and not removing the equipments of cell phone towers in the 7th respondent's house site 277-78 sq.yds. in Sy.No.57/3 Rampuram village, Pendurthi Mandal, Visakhapatnam District by the 6th respondent and passing of resolution giving permission by the Gram Panchayat Rampuram village, Pendurthi Mandal dated 19.9.2017 by the 4th respondent inspite of protest, agitation, Dharnas by the petitioner and public as illegal, arbitrary, unconstitutional and set aside the resolution dated 19.9.2017 of the 4th respondent and consequently direct the respondents to take action on the respondents 4,6 and 7 and for stoppage of the installation of Reliance Jio Cell Phone Tower and to remove all cell phone equipments and tower at 7th respondent's house site of 277-78 sq.yds. in Sy.No.57/3, Rampuram Village, Pendurthi Mandal, Visakhapatnam District to save the lives of people, petitioner and animals of the village from cell phone tower radiations and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard learned counsel for the petitioner, who submits that the 4th respondent granted permission to the 6th respondent for installation of cell phone tower in the house site of 7th respondent without following the guidelines in G.O.Ms.Nos.334 dated

09.10.2012; 420 dated 24.09.2013 and 75 dated 29.07.2015 Panchayat Raj & Rural Development (PTS.III) Department and that the same is situated in busy locality. It is submitted that though the gram panchayat rejected the permission for installation of cell tower earlier, since the 7th respondent is the father-in-law of the Sarpanch, they have permitted the 6th respondent to erect the cell tower.

Counter affidavit is filed by the 4th respondent admitting the grant of permission to the 6th respondent for erection of cell phone tower as per gram panchayat resolution No.47 dated 19.09.2017 and stating that except the petitioner no other persons have raised any objection.

Learned counsel for the petitioner has drawn attention of this Court to G.O.Ms.Nos.334, 420 and 75 and the learned standing counsel for 4th respondent submitted that those G.Os. are applicable only in respect of erection of towers on roof-top and that the petitioner himself stated that the cell tower is erected in open site of the 7th respondent. Learned counsel for the petitioner relied on the decision of this Court reported in **S.T. Ranganathan v. Margadarsi Chit Fund (Pvt.) Ltd., Chittoor and others**¹. The learned standing counsel submitted that the decision cited by the learned counsel for the petitioner pertains to erection of cell towers on roof-top and the same is not applicable to the present case. He also relied on a decision of this Court in **M.Balaram v. Bharat Sanchar Nigam Ltd., Hyderabad and others**², which is also not applicable to the facts of the present case.

¹ 2013 (2) ALD 611

² 2010 (6) ALD 34

As seen from G.O.Ms.Nos.334, 420 and 75, they are applicable only to the erection of towers on roof-top, but it is not the case of the petitioner that the 6th respondent is erecting the roof-top tower. As such the above G.Os. and the decision cited by the learned counsel for the petitioner have no applicability to the facts of the present case. In the decision reported in **M.Balaram** (2 supra), this Court observed as under:

“7. As regards the submission of the learned counsel that erection of a cell tower causes health hazards, the learned Counsel has not filed any material which authoritatively established that operation of cell towers causes such health hazards. The plea of the petitioner in this regard is merely based on his apprehension rather than on established fact. Therefore, this Court cannot accept such a plea in the absence of any proof in support thereof.”

In the present case, the learned counsel for the petitioner has not brought to the notice of this Court as to the violation of any of the provisions of the Act or Rules applicable to the present case. In view of the same, I do not see any reason to entertain the writ petition.

Accordingly, the writ petition is dismissed. No costs.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

A. RAJASHEKER REDDY, J

15th December, 2017

Tsr