

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.08.2018

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THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.19032 of 2018 and
WMP.No.22422/2018

T.Pushpavathi

...Petitioner

Versus

1. The Secretary,
Department of Telecommunications,
Government of India, New Delhi.
2. The Secretary,
Ministry of Information and Broadcasting,
Government of India,
New Delhi.
3. The Secretary,
The Telecommunication Regulatory Authority
of India, Government of India, New Delhi.
4. The Chief Secretary,
Government of Tamil Nadu,
Secretariat, Chennai-9.
5. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai -3.
6. The District Collector,
Chennai District, Chennai.
7. Zonal Officer-Zone-1,
New No.276, Old No.934,
Thiruvottiyur High Road,
Near Ellaiaimman Bus Stop,
Thiruvottiyur, Chennai-19.
8. The Assistant Commissioner of Police,
Tiruvotriyur.
9. The Inspector of Police,
H.8 Police Station, Kaladipet,
Tiruvotriyur, Chennai-19.

10.S.Uma Devi

11.Bharti Airtel Limited
rep. by its Managing Director,
No.101, Bharati Towers,
Santhome High Road,
Mylapore, Chennai-4.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents 1 to 9 from granting permission/license to the 11th respondent to erect the Cell Phone Tower on the open terrace of the 10th respondent premises as not feasible in terms of the rules and regulations laid down by the respondents 1 to 3.

For Petitioner : Mr.R.Udaya Kumar

For Respondents : Mr.V.Jayaprakash Narayanan,
4, 6, 8 and 9 Special Government Pleader

O R D E R

The present Writ Petition has been filed seeking to issue a Writ of Mandamus, forbearing the respondents 1 to 9 from granting permission/license to the 11th respondent to erect the Cell Phone Tower on the open terrace of the 10th respondent premises as not feasible in terms of the rules and regulations laid down by the respondents 1 to 3.

2. Learned Counsel appearing for the petitioner submitted that the petitioner's husband late Mr.T.R.K.Mohan Rao and the 10th respondent are brother and sister respectively. After dividing their family properties in two parts, they have been allotted with each one part. Thereafter, the petitioner's husband has constructed ground plus two floors in his portion whereas the 10th respondent has also constructed a building consisting of ground and first floor. While so, the 10th respondent has given a consent to the 11th respondent to erect a Cell Phone Tower in the first floor of her terrace. Now the grievance of the petitioner is that the said tower will fall within the hands reach of the petitioner's building. Therefore, the petitioner objected to erect the Cell Phone Tower. Hence, prays to issue a direction to the respondents 1 to 9 forbearing them from granting permission/license to the 11th respondent to erect the Cell Phone Tower on the open terrace of the 10th respondent premises as not feasible in terms of the rules and regulations laid down by the respondents 1 to 3.

3. Heard the learned Counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 4, 6, 8 and 9.

4. This Court is unable to entertain the Writ Petition as the issue raised in the writ petition has to be gone into only by a competent civil court. The allegation made by the petitioner is that the 10th respondent is going to allow the 11th respondent to erect a Cell Phone Tower on the first floor of her terrace. When the first floor admittedly belongs to the 10th Respondent, this Court is unable to issue any direction as sought for by the petitioner.

5. In the result, the Writ Petition is dismissed with liberty to the petitioner to approach a proper civil forum. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS V)

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Sub Assistant Registrar

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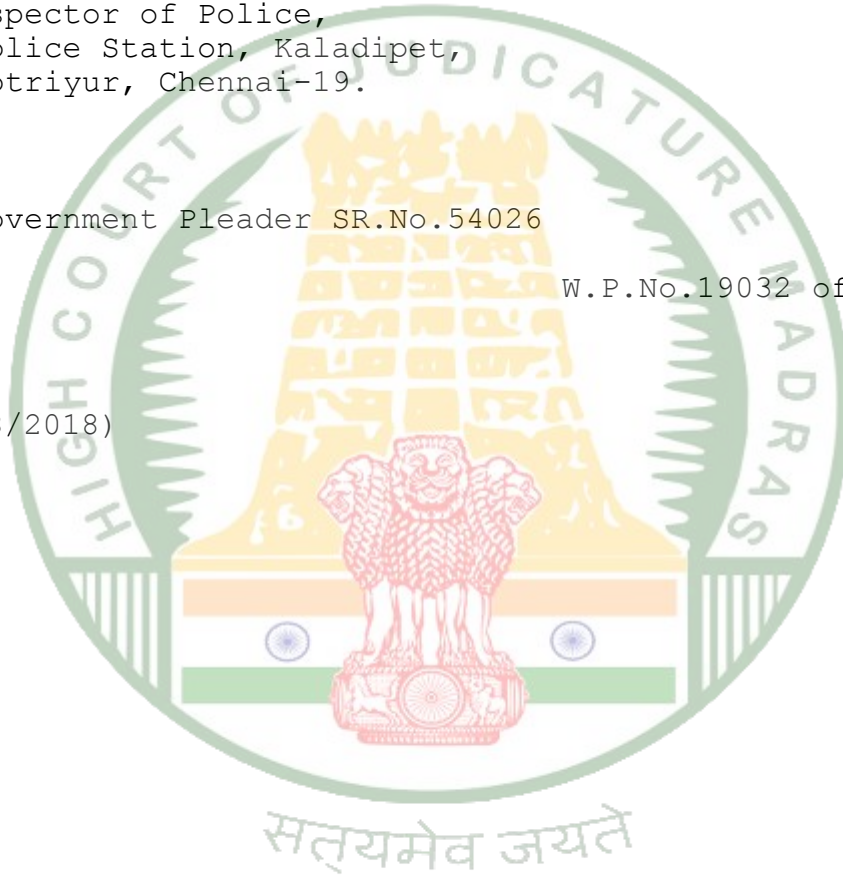
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+lcc to Government Pleader SR.No.54026

W.P.No.19032 of 2018

RJ(CO)
GN(27/08/2018)



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