



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.(MD)No.1214 of 2018

and

W.M.P.(MD)No.1295 of 2018

R.Sundaram

... Petitioner

-Vs-

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Block Development Officer,
Thiruppathur Panchayat Union,
Sivagangai District.

3.M/s.Reliance Jio Infocomm Limited,
Prestige Palladium Bayan, 2nd Floor,
No.129-140, Greams Road, Thousand Lights,
Chennai-600 006. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents 1 and 2 to demolish/remove the unauthorized cell phone tower constructed by the third respondent in land bearing Survey No.7/6, 7/7 and 7/13 in Aavinipatti Village, Tiruppathur Taluk, Sivagangai district.

For Petitioner : Mr.G.Prabhu Rajadurai

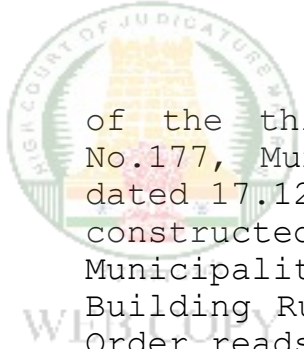
For R1 & R2 : Mr.M.Rajarajan,
Government Advocate.

For R3 : Mr.R.G.Shankar Ganesh

ORDER

The Writ Petition has been filed seeking direction to the first and second respondents to remove the unauthorized cell phone tower constructed by the third respondent.

2.According to the petitioner, he is the resident of Aavinipatti Village. Now, the third respondent has constructed a cell phone tower in Survey Nos.7/6, 7/7 and 7/13 situated in the above said village, without obtaining any permission from the concerned authorities and it is an unauthorized construction. Hence, the present Writ Petition has been filed.



of the third respondent, placed a Government Order in G.O.(Ms) No.177, Municipal Administration & Water Supply (MAI) Department, dated 17.12.2002, wherein the Government has exempted the BTS Towers constructed by Telecom companies from the Tamil Nadu District Municipalities Building Rules 1972 and Multistoreyed and Public Building Rules, 1973. The relevant portion of the said Government Order reads as follows:-

"3.The Government after careful examination grant exemption to BTS Towers constructed by Telecom companies from the Tamil Nadu District Municipalities Building Rules 1972 and Multistoreyed and Public Building Rules, 1973, subject to the conditions imposed in the G.O. and letter first and fourth read above. However, the exemption granted above is subject to the height restrictions in heritage towns ordered in respect of the Madurai Corporation in G.O.(Ms)No.164, MA & WS, dt.16.6.1994 and in respect of other heritage towns in G.O.(Ms)No.22, MA & WS, dt.30.1.1997."

4.In the above circumstances, since the construction of cell phone towers has been exempted from the purview of Tamil Nadu District Municipalities Building Rules 1972 and Multistoreyed and Public Building Rules, 1973, no permission is required for the third respondent to construct any cell phone tower. Therefore, the prayer sought for in the Writ Petition cannot be granted.

5.With the above observation, this Writ Petition is dismissed, accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Block Development Officer,
Thiruppathur Panchayat Union,
Sivagangai District.

+One cc to Mr.G.Prabhu Rajadurai, Advocate, SR.No.44503

+One cc to Mr.R.G.Shankar Ganesh, Advocate, SR.No.44272

Myr

RL/5C/2P/KK/SAR1/9/2/2018