



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2018

CORAM:

**THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE
AND**

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.[MD].No.3182 of 2018

and

W.M.P.[MD].No.3339 of 2018

S.Manikandan

: Petitioner

Vs.

1.The Commissioner of Corporation,
Madurai Corporation,
Madurai.

2.The District Collector,
Madurai District,
Madurai.

3.The Tahsildar,
West Taluk, Madurai.

4.The Inspector of Police,
S.S.Colony Police Station,
Madurai.

5.K.Arasu

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents particularly 1st respondent from issuing any permission, license or certificate of no objection etc., to the 5th respondent for erecting any cell phone tower in Survey No.101 of Ward No.19 of Madurai Municipal Corporation.

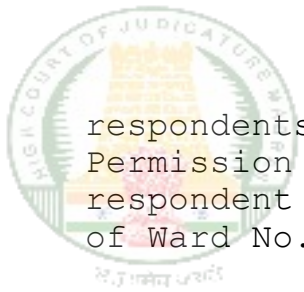
For Petitioner
For Respondents

: Mr.T.Kumar
: Mr.N.Shanmugaselvam for R.1
Mr.S.Bala Karthick for R.5
Mr.A.K.Baskara Pandian,
Special Government Pleader
for R.2 to R.4

O R D E R

[Order of the Court was made by The Hon'ble Chief Justice]

This writ petition, by way of public interest litigation, has been filed seeking a Writ in the nature of Mandamus, directing the



respondents, particularly, the first respondent from issuing any Permission / Licence / No Objection Certificate to the fifth respondent for erection of a cellular phone tower in Survey No.101 of Ward No. 19, Madurai Municipal Corporation.

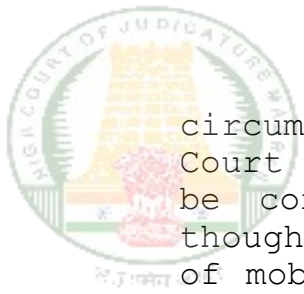
2. In the affidavit in support of the writ petition, the petitioner has contended that the area, where the cellular phone tower is proposed to be erected, is strictly populated and the radiation emitted from the cellular phone tower would affect the public.

3. In course of arguments, it is submitted that the erection of cellular phone tower will also worsen the acute water shortage in the city of Madurai. However, there are no pleadings in the writ petition with regard to the impact of the erection of a cellular phone tower on the water sources, from which, the city of Madurai gets its water supply.

4. The issues raised in this writ petition are covered by the judgment and order of a Division Bench of this High Court dated 19th February 2018 in W.P.No.3006 of 2018 (P.Balasubramaniam v. District Collector, Namakkal District, Namakkal and others). The Division Bench, of which, one of us (the Chief Justice) was a member, relying upon an order dated 05th March 2015, in W.P.No.24967 of 2008, moved by Dr.K.R.Ramaswamy @ Traffic Ramaswamy, passed by a Division Bench of this Court comprising of erstwhile Chief Justice of this Court Mr.Justice.Sanjay Kishan Kaul and Mr.Justice M.M.Sundresh, disposed of the writ petition, by observing as under:

"5. It is not for this Court exercising its extraordinary writ jurisdiction to assess the health hazards of erection and/or commission of high rise Mobile Phone Towers in residential areas or elsewhere. The exercise of study of health hazards, if any, of erection of Cellular Phone Transmission Towers has to be done by the Health Department of the Union of India and the Government of Tamil Nadu and based on such study, measures may have to be taken. This Court neither has the expertise, nor the technical knowledge to assess the effects and/or ill-effects of the radiation, if any, caused by the installation of Cellular Phone Transmission Towers.

6. It is believed that not only erection of towers, but even excessive use of mobile phones has its own hazards. However, mobile phones seem to have become a part of life, where parents who can afford mobile phones, even provide children with mobile phones so that they can keep track of the children. Mobile phones are used by persons of every strata of society. Regretfully, we cannot but comment on our own inability to strictly enforce switching off of mobile phones even in the Court rooms and Court proceedings are often disturbed by ringing mobile phones. In these



circumstances, we are not sure whether an order by the Court prohibiting erection of Mobile Phone Towers can be considered to be an order in public interest, though personally we may feel that restriction in use of mobile phones is imperative for reasons of health, reasons of concentration and may be even social and family harmony."

5. As a Bench of co-ordinate strength, we are bound by the verdict dated 5th March 2015 in the public interest litigation initiated by Dr.K.R.Ramaswamy @ Traffic Ramaswamy.

6. It is for the concerned authorities to conduct necessary studies on the impact of cellular phone towers on health and environmental resources and to take such measures as might be deemed appropriate upon such study. The interference of this Court is not warranted.

7. The writ petition is disposed of with the above observations. Needless to mention that the cellular phone transmission tower might only be erected on obtaining the requisite permissions and approvals as per law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1.The Commissioner of Corporation,
Madurai Corporation,
Madurai.

2.The District Collector,
Madurai District,
Madurai.

3.The Tahsildar,
West Taluk, Madurai.

4.The Inspector of Police,
S.S.Colony Police Station, Madurai.
+1cc to The Special Government Pleader, SR.No.60249
+1cc to Mr.T.Kumar, Advocate, SR.No.60273
+1CC to Mr.S.Bala Karthick, Advocate, SR.No. 60380

RR/GK

RL/8C/3P/KKR/SAR4/17/4/2018