

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 44060 of 2018

ORDER:

- 1) Heard.
- 2) The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the order vide Roc.No.115/2017/G1, dated 06.08.2018 of respondent No.4 in canceling the permission granted vide Roc.No.115/2017/G1, dated 15.09.2017 to install Ground Based Tower (GBT) in Survey No.276/6 of Mallayapalem village, Mummidivaram mandal, East Godavari district for Reliance Jio Infocomm. Limited, as illegal and arbitrary.
- 3) The petitioner claims that on a consent given by him to install Ground Base Tower (GBT) in the land referred to above, the fifth respondent submitted its application for grant of permission to install GBT in the said land to the fourth respondent and accordingly the fourth respondent granted permission to install Ground Base Tower in the said land, vide proceedings dated 15.09.2017, as per G.O.Ms.No.146 MA, dated 19.06.2015. Pursuant thereto, the petitioner entered into an agreement/letter of intent with the fifth respondent, for a period of 20 years and accordingly, the fifth respondent started the work to install GBT and that 50% of work has been completed. While things stood thus, the fourth respondent issued proceedings dated 23.11.2017, canceling

the permission granted for installation of tower, on various grounds. The said proceedings was challenged in W.P.No.5699 of 2018, before this Court, wherein this Court after referring to the complaint filed by the people of the locality regarding the cell tower and the effect of radiation on them, allowed the Writ Petition with a direction that the same would not prevent the respondent – Nagar Panchayat to proceed according to law. The order passed by this Court was submitted to the fourth respondent. Pursuant thereto, the fourth respondent issued a show cause notice dated 23.05.2018 asking the concerned to submit explanation and accordingly an explanation was submitted. Thereafter, the impugned proceedings came to be issued canceling the permission dated 15.09.2017 for installation GBT. Challenging the said cancellation proceedings, the present Writ Petition came to be filed.

4) It is to be noted that the petitioner herein gave his consent to install GBT and it is the fifth respondent who earlier got permission for installation of cell tower in the said place. It appears that the fifth respondent is not aggrieved by the order passed by the authorities in canceling the permission as the fifth respondent never challenged the same. The grievance of the petitioner is that due to cancellation of the permission, the petitioner is put to a loss of Rs.6,500/- per month, in view of the rental agreement entered into with fifth respondent. The grievance of the petitioner is against the

fifth respondent, as he is sustaining rental loss in view of the cancellation of the permission for erection of the cell tower.

5) From the above undisputed facts, it is clear that the person (leaseholder) who is aggrieved with the cancellation of permission granted for installation of cell tower is not before this Court and that the person who leased out the land to the fifth respondent for erection of cell tower is before this Court, on the ground that he would be losing his rents, in view of the cancellation and that he will be put to irreparable loss. If really, any loss is caused to the petitioner as claimed by him, remedy lies elsewhere for recovery of damages, if any, sustained to him. Further, he cannot be the proper person to question the cancellation of permission for erection of cell tower.

6) Hence, I see no ground to interfere with the impugned orders and accordingly the writ petition is dismissed.

7) There shall be no order as to costs. As a sequel thereto, miscellaneous petitions pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:04.12.2018

vhb