



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.5862 of 2019 and
W.M.P.Nos.6700 and 6701 of 2019

- 1 K.Latha
- 2 K.Suresh Krishnan
- 3 M.Pandian
- 4 R.Umapathi Rajamanickam .. Petitioners

v.

- 1 The Secretary to Government,
Municipal Administrative Department ,
Government of Tamil Nadu,
Fort. St. George,
Chennnai-600 009.
(R1-given up vide order dated 14/06/2019 made in NP 5862 of
2019 by CJ & MDJ)
- 2 The District Collector,
Kancheepuram District,
- 3 The Tahsildar,
Sriperumbudur,
Kancheepuram District
- 4 The Block Development Officer,
Kunrathur Panchayat Union,
(E) Padappai,
Kancheepuram District
- 5 Mr.P.Arun Prasad
- 6 M/S.Reliance Jio Infocomm Limited,
Circle Office, A-1 Tower,
8th Floor,
89-90, Dr.Radhakrishnan Salai,
Chennai. .. Respondents



Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Mandamus, directing the respondents 2 and 4 to stop forthwith the ongoing construction activities of the Cell Phone Tower at Survey No.263/6 of Athanancherry Village, Padappai Panchayat, Sriperumbudur Taluk, Kancheepuram District, demolish the structure already constructed therefor and to restore the said site to its original position at the cost of the respondents 5 and 6.

For Petitioners : Mr.G.Mutharasu

For Respondents : R1 - Given Up
Mr. V.Jayaprakash Narayanan
Govt. Pleader (i/c) - for R2 to R4

No Appearance - for R5
Mr.R.Anantha Rama Krishnan - for R6

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioners have filed the above Writ Petition to issue a Writ of Mandamus, directing the respondents 2 and 4 to stop forthwith the ongoing construction activities of the Cell Phone Tower at Survey No.263/6 of Athanancherry Village, Padappai Panchayat, Sriperumbudur Taluk, Kancheepuram District, demolish the structure already constructed and to restore the said site to its original position at the cost of the respondents 5 and 6.

2. It is the case of the petitioners that Survey No.263/6 of Athanancherry Village, Sriperumbudur Taluk is a Grama Natham site and no one is entitled to change the residential use of the land for commercial purposes without proper sanction of the Town and Country Planning Authority. According to the petitioners, the 6th respondent entered into an agreement to erect Cell Phone Tower without obtaining prior permission from the 2nd respondent or the 4th respondent. Further, according to the petitioner, Chitta, Adangal and FMB Sketch would reveal that the land in Survey No.263/6 is Grama Natham.

3. The 4th respondent, the Block Development Officer, filed a counter affidavit, wherein he has stated that as per Rule 6(2) (vi) of the Tamil Nadu Combined Development and Building Rules, 2019, an exemption from obtaining planning permission, is granted only to the Government to carry out constructions



and installations essential for the purpose of Posts and Telegraphs, Telephone, Wireless, Broadcasting and other like forms of communication. Further, the 4th respondent has stated that the 6th respondent being a private entity, cannot claim the said exemption and must apply for planning permission before the competent authority under Rule 6(1) of the said rules.

4. Admittedly, the 6th respondent has not obtained any planning permission prior to the erection of Cell Phone Tower. Since as per the rules, it is mandatory to get planning permission from the competent authority, action should be taken to stop the on going construction activity of Cell Phone Tower in Survey No.263/6 and for demolition of structure. In paragraph No.11 of the counter, filed by the 4th respondent, he has also stated that necessary action in the matter is being taken.

5. In these circumstances, since the 6th respondent is putting up construction of Cell Phone Tower in Survey No.263/6 without obtaining planning permission, the concerned authorities shall take appropriate action for removing the same.

With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Rj
To

- 1 The Registrar
The Debt Recovery Appellate Tribunal,
Chennai.
- 2 The Authorised Officer,
Housing Development Financing Corporation Ltd.,
No.760 Anna Salai, Chennai 600 002.

+1cc to Mr.G.Mutharasu, Advocate Sr.55806
+1cc to Mr.N.R.Anantha Rama Krishnan, Advocate Sr.56082
+1cc to the Government Pleader Sr.55946

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srg 06/09/2019