



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.19317 of 2019
and WMP.No.18777 of 2019

P.Murugavel

...Petitioner

Vs

1. The District Collector,
Office of the Collectorate,
Thiruvarur.
2. The Block Development Officer,
Village Panchayat,
Koradacherri,
Thiruvarur District.
3. The Inspector of Police,
Koradacherri Police Station,
Koradacherri
Thiruvarur District.
4. M/s.Reliance Jio Infocomm Limited
Rep.by its General Manager,
its Circle Office at A1 Tower, 8th Floor,
89-90, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

5. G.Sasikumar

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 not to permit the 4th respondent to erect the Cell Phone Tower in the 5th Respondent's Plot Nos.25 and 26, Annamalai Nagar, Devarkandanallur Village, Kullikkarai Post, Thiruvarur District.

For Petitioner : Mr.R.Thirugnanam
For Respondents: Mr.Akhil Akbar Ali
Government Advocate
for R1 to R3



O R D E R
[Order was delivered by S.MANIKUMAR,J]

The petitioner has sought for issuance of a Writ of Mandamus directing the respondents 1 and 2 not to permit the 4th respondent to erect the Cell Phone Tower in the 5th Respondent's Plot Nos.25 and 26, Annamalai Nagar, Devarkandanallur Village, Kullikkarai Post, Thiruvavarur District.

2. In support of the prayer sought for, the petitioner has relied upon the Policy of the Government in G.O.Ms.No.2 Information Technology Department dated 01.04.2002, wherein, it is stated that the District Collector is a Competent Authority to accord permission. Under the above said G.O., to grant permission for installing Towers, provision for erection of Cell Phone Tower, equipment room and generator room on roof top or on the ground of premises and buildings belonging to Government of Tamil Nadu, is subject to the terms and conditions and permission will be issued by the District Collector concerned in consultation with the District Office concerned. Based on the information obtained from the Block Development Officer, Koradacheri, addressed to the petitioner that no such permission has been granted and that no approval has been granted for constructing a Jio Cell Phone tower at Plot Nos.25 & 26, the instant writ petition has been filed.

3. Though Mr.R.Thirugnanam, the learned counsel appearing for the petitioner made submission and sought for issuance of notice, we are not inclined to do so, for the simple reason that in G.O.Ms.No.2 Information Technology Department dated 01.04.2002, Government have accorded permission to any licenced telecom company to install its base stations consisting of Tower, Equipment room and Generator room, on roof top or on the ground of premises and buildings belonging to Government of Tamil Nadu subject to availability and technical feasibility, on a non-exclusive basis and also subject to the following terms and conditions as per 4(i) of the above said G.O., which reads as follows:

"(4) (i) Permission for installing towers, equipment and generator etc., on case to case basis will be issued by the district Collector concerned in consultation with the district office concerned."

4. The above clause in G.O.Ms.No.2, Information Technology Department, dated 01.04.2002, reproduced above, makes it clear that the District Collector concerned is the competent authority to grant permission. However, based on information furnished by the Block Development Officer dated 26.06.2019, instant writ petition has been filed. Proceedings dated 26.06.2019 of the



Block Development Officer, Koradacheri, addressed to the petitioner, is reproduced as follows:

"From
Thiru.V.Vasudevan, B.Sc., B.Ed.,
Block Development Officer,
Koradacheri.

To
Thiru.B.Pasupathi, (President)
Annamalai Nagar & Nila Nagar
Residents Welfare Association,
Thevarkandanallur 513 704.

R.C.No.33/2010/B3 datd: 26.06.2019

Sir,

Sub: Complaint - Thiruvarur District - Koradacheri Block
- Thevarkandanallur Panchayat - Annamalai Nagar -
Cellphone Tower by Jio - Information about Not issuing
approval to the Company - Reg.

Ref:- 1. Petition dated 18.06.2019 from Annamalai
Nagar & Nila Nagar Residents Welfare Association.

2. Other concerned documents.

As per the letter in reference No.1 Jio Cellphone
company had started the work of constructing Cell Phone
Tower at Plot Nos.25 and 26, in Thevarkandanallur
Panchayat, AnnamalaiNagar, Koradacheri Block Thiruvarur
District, in the plots purchased for residential
construction and the construction of cell phone tower
work was temporarily stopped by the residents of the
area.

Further it is informed to the petitioner that no
approval was issued for constructing the Jio Cellphone
tower at those Plot Nos.25 & 26.

Sd/-
Block Development Officer,
Koradacherri.

Copy Humbly submitted to: Assistant Director
(Panchayats), Thiruvarur".

5. Admittedly, the petitioner has obtained information from
the Block Development Officer, Koradacheri, who is not the



competent authority to grant permission. The petitioner has not obtained necessary details from the District Collector, who is the competent authority for granting permission as stated in the above said G.O. However the learned counsel for the petitioner, emphasises that no approval has been granted. Writ petition does not satisfy the requirements of the public interest litigation.

6. For the reasons stated supra, the writ petition stands dismissed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The District Collector,
Office of the Collectorate,
Thiruvavarur.
2. The Block Development Officer,
Village Panchayat,
Koradacherri,
Thiruvavarur District.
3. The Inspector of Police,
Koradacherri Police Station,
Koradacherri
Thiruvavarur District.

+1cc to Mr.R.Thirugnanam, Advocate, S.R.No.57831
+1cc to the Government Pleader, S.R.No.58309

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JP(CO)
CS/28/08/2019