

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.24909 of 2019
and WMP No.24505 of 2019

Thiruvalluvar Nagar House Owner's Association,
Represented by its Secretary,
G.Sekaran

... Petitioner

vs.

1. The Executive Engineer,
Zone-IV, Chennai Corporation,
Tondiarpet,
Chennai - 600 021.

2. The Assistant Engineer,
Circle-41, Zone-IV,
Chennai Corporation,
J.J. Nagar, Korukkupet,
Chennai - 600 021.

3. The Commissioner,
Corporation of Chennai,
Chennai - 600 003.

4. Mr.Ganesan.

5. M/s.Airtel,
101, Bharathi Towers,
Santhome High Road,
Santhome,
Chennai - 600 004.

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the 1st respondent to consider the petitioner's representation dated 14.06.2019 and consequently direct the 1st respondent take appropriate proceedings to stop the construction of cell phone tower at No.28, 3rd Street, Thiruvallurvar Nagar, Korrukupet, Chennai - 600 021.

For Petitioner : Dr.G.Krishnamurthy

For Respondents : Mr.K.Soundararajan (for R1 to R3)
Standing counsel for Chennai Corpn.

ORDER

(Order of the Court was made by S.MANIKUMAR, J)

Apprehending that construction of a cell phone tower at No.28, 3rd Street, Thiruvalluvar Nagar, Korrukupet, Chennai, would be hazardous and create health problems to the members of the Thiruvalluvar Nagar House Owner's Association, its Secretary, is stated to have sent a representation to the Assistant Engineer, Circle-41, Zone-IV, Chennai Corporation, JJ Nagar, Korrukupet, Chennai, the 2nd respondent.

2. Contending inter alia that no action has been taken, instant writ petition has been filed for a writ of mandamus, directing the Executive Engineer, Zone-IV, Chennai Corporation, Tondiarpet Chennai, the 1st respondent to consider the petitioner's representation dated 14.06.2019 and consequently, direct the 1st respondent to take appropriate proceedings to stop the construction of cell phone tower at No.28, 3rd Street, Thiruvalluvar Nagar, Korrukupet, Chennai - 600 021.

3. Grounds raised in the instant writ petition are as under.

(i) Since the proposed construction of the cell phone tower is against rules and provisions contemplated under the Chennai Greater Municipal Corporation Act, respondents 1 to 3 ought to have stopped the construction and initiated proceedings.

(ii) Since construction of cell phone tower and functioning of the same would cause hazardous, and health problems to the members of the association, their right to life, guaranteed under Article 21 of the Constitution of India is infringed.

4. Except stating that the proposed construction of the cell phone tower is against the rules and provisions of Chennai City Municipal Corporation Act and that the same would cause dangerous and health problems to the members of the petitioner's association, there is no material document filed in support of the averments to show that the petitioner has made any attempt to find out from the competent authorities as to whether permission required from the local body, is obtained. There is no material in support of the contention that construction of the cell phone tower, would cause dangerous and unhealthy problems.

5. High Court, Madras in exercise of the powers under Article 225 of the Constitution of India, have framed guidelines in the matter of Public Interest Litigations and the notification in SRO C-2/2010 dated 26.07.2010, reads thus.

"No. SRO C-2/2010.

By virtue of Article 225 of the Constitution of India and of all other powers hereunto enabling, the High Court makes the following Rules to regulate Public Interest Litigations (PIL) filed under Article 226 of the Constitution of India:

Every Public Interest Litigation must be filed in accordance with the following rules:-

1. Every PIL must indicate that the petitioner has no personal interest in the case. If he has any personal interest, he must disclose the same. In the event of the High Court finding the claim as frivolous or vexatious, the PIL shall be dismissed with exemplary cost.

2. If the PIL is filed on behalf of a class of persons, the details of the persons for whose benefit the PIL is filed, must be indicated. If it is a society or association of persons, the writ petitioner must enclose a resolution from such society or association of persons, authorising the petitioner to file the writ petition and if the body is duly registered with competent authority, a copy of the bye-laws of the said body authorising the petitioner to file the writ petition, shall be enclosed.

3. If the petitioner has filed any PIL earlier, the details of the petition, and the final order, if any, passed in that petition, the relief granted and costs, if any, awarded, shall be indicated. No Public Interest Litigation Petition will be entertained in respect of civil disputes between individuals or in service matters. The petitioner shall give an undertaking that he will pay the costs, if any, if it is found to be intended for personal gain or oblique motive.

4. The petitioner must disclose whether he has filed the petition out of his own funds or from other sources. If it is the latter, the particulars should be given.

5. The petitioner must state in the affidavit that to his knowledge, no PIL arising on the same issue, has been filed anywhere.

6. The affidavit filed by the petitioner must contain the averments that he has filed the writ petition based on his information and his personal knowledge. If he has filed the writ petition based on

an information received from any other source, he must clearly indicate the source. If it is a newspaper report, the affidavit shall clearly state as to whether the deponent has verified the facts by personally visiting the place or talking to any responsible person or Reporter or Editor of the newspaper concerned.

7. If the petitioner has given any representation to any authority, a copy of the same shall be filed in the typed set of papers along with reply, if any, received from the authority. He shall file the proof of service of representation before the Court.

The above rules will not be applicable to the Public Interest Litigations taken on file by the High Court"

6. Having regard to the guidelines framed by this Court and in the light of what is stated supra, we are of the view that instant writ petition does not satisfy the requirement of a public interest litigation. Hence, the instant Writ Petition is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

ars

To

1. The Executive Engineer,
Zone-IV, Chennai Corporation,
Tondiarpet,
Chennai - 600 021.

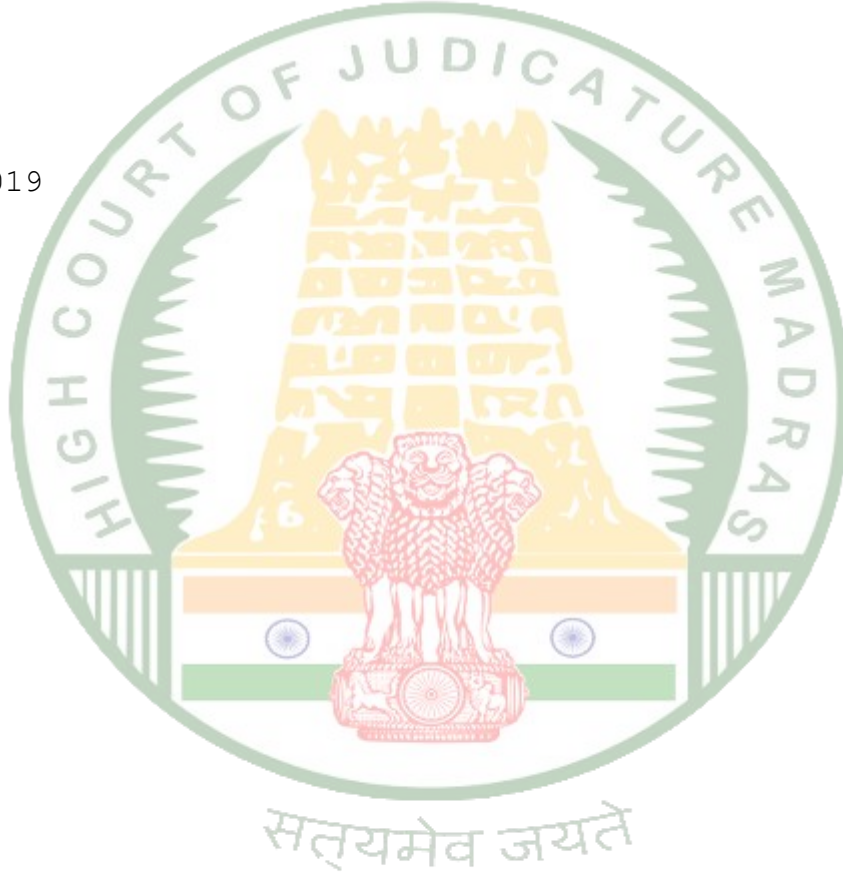
2. The Assistant Engineer,
Circle-41, Zone-IV,
Chennai Corporation,
J.J. Nagar, Korukkupet,
Chennai - 600 021.

3. The Commissioner,
Corporation of Chennai,
Chennai - 600 003.

+1 cc to Dr.G.Krishnamurthy Advocate sr72858
+1 cc to Mr.K.SoundaraRajan Advocatesr 73386

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