



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.1560 of 2021

P.Muthuvel

... Petitioner

-Vs-

1.The Secretary,
Department of Telecommunication
Sanchar Bhawan 20,
Ashoka Road,
New Delhi 110001.

2.Chennai Network Infrastructure Limited (CNIL)
No.403L, 7th Floor Samsung Towers,
Pantheon Road, Egmore,
Chennai-08.

3.The District Collector,
Madurai District Collector Office,
Madurai.

... Respondents

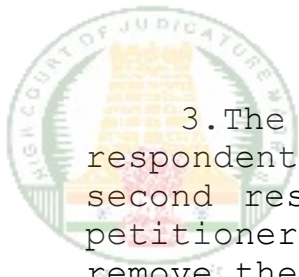
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to remove the Tower installed in an area admeasuring an extent 957.44 sq.ft forming a portion of the open terrace above my house building bearing Plot No.4689, Jaihindupuram Main Road, Tamil Nadu Housing Board Colony, Villapuram Madurai in the supervision of the third respondent.

For Petitioner	: Mr.K.Jagadeesan
For R3	: Mr.V.Anand
	Government Advocate
For R1	: Mr.R.Murugappan

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the third respondent and the learned Standing Counsel appearing for the first respondent.

2.The petitioner is the owner of the petition mentioned building. The petitioner's mother Saroja Kani had entered into a lease agreement with the second respondent and permitted installation of the cell tower on the terrace of her building. Subsequently, the property had been settled in favour of the petitioner herein.



3.The specific case of the petitioner is that the second respondent is not paying the rent. It is also stated that the second respondent is not maintaining the tower. Therefore, the petitioner wants this Court to direct the second respondent to remove the same from the terrace portion.

4.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

5.The relief sought for by the petitioner is only against the second respondent. The second respondent is not a State Instrumentality within the meaning of Article 12 of the Constitution of India. As rightly pointed out by the learned standing counsel, the case arises out of a contractual relationship between the two private individuals. Therefore, there is no public element present in the writ petition. It is for the petitioner to work out his rights in the manner known to law. The Writ Petition will not lie. The Writ Petition is dismissed as not maintainable. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The District Collector,
Madurai District Collector Office, Madurai.

+1 CC to SGP (SR-3325[F] dated 04/02/2021)

+1 CC to Mr.K.JAGADEESAN, Advocate (SR-3106[F] dated 03/02/2021)

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