



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2021

CORAM :

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**THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

**W.P. (MD) No.8846 of 2020
and W.M.P. (MD) No.8107 of 2020**

R.Balasubramani

.. Petitioner

Vs

1.The District Collector,
Dindigul District,
Dindigul - 624 004.

2.The Superintendent of Police,
Dindigul District,
Dindigul.

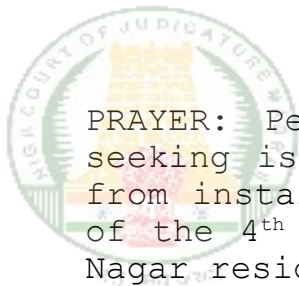
3.M/s.Bharti Airtel Limited (India),
Unitech World Cyber Park,
Sector - 39, Tower A, 4th Floor,
Gurgaon - 122 001,
Haryana State (Delhi & NCR).

4.Sree Nandini Sambrani Company,
Rep. by its Proprietor and CEO,
Mr.Gobi Kannan,
No.2/842, Trichy Road,
Seelapadi,
Dindigul - 624 005.

5.M/s.Indus Towers Limited,
having its circle office at
5(NP), ESPEE, IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthangal, Chennai - 600 097,
Through the Managing Director,
represented by its Assistant Legal Manager,
S.Prasanna.

... Respondents

(R5 impleaded vide order of the Court dated 23.04.2021 made in
W.M.P. (MD)10117 of 2020 by TSSJ and SAIJ)



PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, to forbear the respondents from installing the Cell Phone Tower (Base Station) in the premises of the 4th respondent at No.2/842, Trichy Road, Seelapadi and Anbil Nagar residential area in Seelapadi, Dindigul.

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For Petitioner : Mr.J.Sakthi Kumaran
for M/s.K.Seemaraj
For Respondent Nos.1 & 2 : Mr.K.P.Krishnadass
Special Government Pleader
For Respondent Nos.3 & 5 : Mr.K.Govindarajan

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

This Writ Petition, styled as a Public Interest Litigation, has been filed complaining about the erection of Cell Phone Tower by the fifth respondent.

2.The main ground raised by the learned counsel for the petitioner is that there are more than 100 families in the locality. As rightly submitted by the learned counsel appearing for respondent Nos.3 and 5, in a similar writ petition **W.P.(MD) No.24976 of 2008**, in the matter of **K.R.Ramaswamy @ Traffic Ramaswamy v. The Secretary, Department of Telecommunications, Government of India, New Delhi and others**, the Hon'ble First Bench of this Court by order dated 05.03.2015 has held that the said ground cannot be entertained as one of the grounds for preventing erection of the Cell Phone Tower. Therefore, on the said ground we cannot prevent erection and commission of the Cell Phone Tower.

3.So far as the permission is concerned, it is shown that the fifth respondent has obtained permission from the authorities and thereafter, only the tower has been erected.

4.On an earlier occasion, a report was called for by this Court as to whether the Cell Phone Tower has been erected on the Government land or not. A report has been submitted by the District Collector, Dindigul District in proceedings in Na.Ka.No.17539/2020/B3, dated 31.08.2020, stating that the Cell Phone Tower is erected in a patta land and on the first floor of the building owned by Mr.R.Gobikannan S/o. Ramasamy Naidu. Thus, it is clear that the Cell Phone Tower has not been erected in Government land.

5.For the above reasons, we are not inclined to grant the relief as sought for in the Writ Petition. Accordingly, the Writ



Petition is dismissed. Consequently, connected Miscellaneous
Petition is also dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

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:

1.The District Collector,
Dindigul District,
Dindigul - 624 004.

2.The Superintendent of Police,
Dindigul District,
Dindigul.

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-17484[F] dated 26/04/2021
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+1 CC to M/s.SPL GP (SR-17561[F] dated 26/04/2021)

W.P. (MD) No.8846 of 2020
23.04.2021

SBS (CO)

KB (27.05.2021) 3P 5C