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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.NO.6532 OF 2022

AND

W.M.P.NO.6620 OF 2022

A.K.Mohammed Sheik Maraikayar

...Petitioner

Vs.

- 1.The District Collector,
District Collectorate Office,
Tiruvarur District.
- 2.The Tasildhar,
Thiruthuraipoond Taluk Office,
Tiruvarur District.
- 3.The Executive Officer,
Muthupet Town Panchayat,
Muthupet 614 704.
- 4.The Superintendent of Police,
Office of Deputy Superintendent of Police,
District Police Office,
Tiruvarur.
- 5.Deputy Superintendent of Police,
Office of Deputy Superintendent of Police,
Muthupet Sub Division,
Tiruvarur District.
- 6.The Inspector of Police,
Muthupet Police Station,
Tiruvarur District.
- 7.M/s.Indus Towers Limited,
having it's circle office at 5 (NP) ESPEE, IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthagal,
Chennai 600 097.

8.A.Sirajudeen

...Respondents



Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents particularly the 1st and 3rd respondents, not to permit the 7th respondent from erecting the cell phone tower in Tiruvarur District, Thiruthuraipoondi Taluk, Muthupet, No.82, Thuraikadu Revenue Village, Bakkirivadi Street, Old S.F.No.231/3 in New S.F.No.231/3A1, Patta No.1922 subdivided in New S.F.No.231/3A1B.

For Petitioner : Mr.G.Mohammed Aseef

For RR1, 2, 4 to 6 : Mr.U.Baranidharan
Additional Government Pleader

For R3 : Mr.S.J.Mohamed Sathik
Government Advocate

O R D E R

This Writ Petition is filed for a direction to the respondents particularly the 1st and 3rd respondents, not to permit the 7th respondent from erecting the cell phone tower in Tiruvarur District, Thiruthuraipoondi Taluk, Muthupet, No.82, Thuraikadu Revenue Village, Bakkirivadi Street, Old S.F.No.231/3 in New S.F.No.231/3A1, Patta No.1922 subdivided in New S.F.No.231/3A1B.

2.Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader appearing for the respondents 1, 2, 4 to 6 as well as the learned Government Advocate appearing for the 3rd respondent and perused the entire materials available on record.

3.By consent of the learned counsel appearing for the petitioner, learned Additional Government Pleader who takes notice for the respondents 1, 2, 4 to 6 as well as the learned Government Advocate who takes notice for the 3rd respondent, the Writ Petition is taken up for final disposal at the admission stage itself.

4.According to the petitioner, 8th respondent owns a property at Tiruvarur District, Thiruthuraipoondi Taluk, Muthupet, No.82, Thuraikadu Revenue Village, Bakkirivadi Street, Old S.F.No.231/3 in New S.F.No.231/3A1, Patta No.1922 subdivided in New S.F.No.231/3A1B. The 8th respondent has given permission to the 7th respondent to erect cell phone tower in the said land. According to the petitioner, the property of 8th respondent is within 15 meter radius from Rahmath Girls Matriculation Higher Secondary School and in the middle of the residential area. If cell phone tower is erected in the said property, it will affect



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the public in that area and children who are studying in the Rahmath Girls Matriculation Higher Secondary School. The 7th respondent is making arrangements to erect the tower. The petitioner and others gave a complaint to the Police and 7th respondent stopped erecting the cell phone tower. Again the 7th respondent is taking steps to erect the cell phone tower without obtaining any permission from the 1st respondent. Hence, the petitioner has sent representation dated 10.03.2022, mentioning the health hazard if cell phone tower is erected in the residential area. Since no order is passed, the petitioner has come out with the present Writ Petition.

5.The learned counsel appearing for the petitioner relied on the order of the Division Bench of this Court dated 19.03.2019 made in W.P.(MD).No.6440 of 2019 [S.S.Nagar Kudiuryppor Nala Sangam Vs. The District Collector, Sivagangai District and others], wherein it has been held that no cell phone tower can be erected within 100 meter radius from the residential area and directed the respondents therein to act as per the guidelines of Tele Communication Department, in erecting the cell phone towers.

6.Considering the contention of the petitioner that 7th respondent is making arrangements to erect cell phone tower in the middle of the residential area and also within 15 meters of Rahmath Girls Matriculation Higher Secondary School, the respondents 1 to 3 are directed to consider the representation of the petitioner on merits and pass orders in accordance with law, after giving opportunity to the petitioner and respondents 7 and 8 within a period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to send copy of the representation dated 10.03.2022, enclosing a copy of the Division Bench order dated 19.03.2019 made in W.P.(MD).No.6440 of 2019 (cited supra), along with the copy of this order.

With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar(CS)

// True Copy //

Sub Assistant Registrar

gsa

To

1.The District Collector,
District Collector Office,
Tiruvarur District.



2.The Tasildhar,
Thiruthuraipoond Taluk Office,
Tiruvarur District.

3.The Executive Officer,
Muthupet Town Panchayat,
Muthupet 614 704.

4.The Superintendent of Police,
Office of Deputy Superintendent of Police,
District Police Office,
Tiruvarur.

5.Deputy Superintendent of Police,
Office of Deputy Superintendent of Police,
Muthupet Sub Division,
Tiruvarur District.

6.The Inspector of Police,
Muthupet Police Station,
Tiruvarur District.

7.M/s.Indus Towers Limited,
5 (NP) ESPEE, IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthagal, Chennai 600 097.

+2ccs to M/s.G.Mohammed Aseef, Advocate, S.R.No.18703

+1cc to the Special Government Pleader, S.R.No.19143

W.P.No.6532 of 2022

SKM(CO)
RVM(29/03/2022)