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W.P.No.20731 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.20731 of 2023

and

W.M.P.Nos.20101, 20102, 20103

& 20104 of 2023

S.Saraswathi

...Petitioner

Vs.

1.The District Collector
Vellore District, Vellore.

2.The Commissioner
Vellore Corporation, Vellore District.

3.The Assistant Executive Engineer
Public Works Department, (Construction and Maintenance)
Office of the Executive Engineer,
Vellore 632 004.

4.The Assistant Electrical Engineer
Tamil Nadu General and Distribution Corporation
E & P, West Division, Vellore District.

5.M.Karunakaran

6.Tower Vision India Private Ltd.,
Represented by its Authorized Signatory Mr.R.M.Nagappan
AGM Towers, Basement No.28, Lawyers Jagannathan Street
Alandur, Chennai 600 016.



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7.Sneham Project Consultants
Represented by its Authorized Officer
Office at Guru Deepan, First Floor,
No.1, Sowdambigai Nagar, Simson Nagar Extension
Velandipalayam Post, Coimbatore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, after calling for the records from the first respondent in his impugned order of NOC dated 25.05.2022 in Application No.VEL211100034 infavour of the sixth respondent to quash the same and issue consequential directions to the respondents 1 to 4 to remove the Cell Phone Tower situated at 1/36, Burma Colony, Vasanthapuram, K.K.Nagar, Vellore District, in accordance with law.

For Petitioner : Mr.A.M.Esakkiappan

For Respondents : Mr.J.Ravindran
Additional Advocate General (IX)
Assisted by

Mr.C.Selvaraj for R1
Additional Government Pleader

Mr.R.U.Dinesh Rajkumar for R3 & R4
Additional Government Pleader

Mr.P.S.Prabu for R2



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Standing Counsel
Mr.A.M.Amutha Ganesh for R6
R5& R7 – No appearance

ORDER

This Writ Petition is filed challenging the No Objection Certificate issued by the first respondent dated 25.05.2022 to the sixth respondent for erecting a cell phone tower in Door No.1/36, Burma Colony, Vasanthapuram, K.K.Nagar, Vellore District.

2. It is the case of the petitioner that the building in which, the cell phone tower erected by the fifth respondent is in dilapidated condition and a certificate had been issued by the Assistant Executive Engineer, Public Works Department, (Construction and Maintenance, Vellore), regarding dilapidated condition of the building.

3. The first respondent filed a counter affidavit stating that based on the stability certificate produced by the sixth respondent and other documents through online portal, the permission was granted to the sixth respondent to erect the cell phone tower in the above said building.



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4. It is also seen that earlier the Assistant Electrical Engineer, Tamil Nadu Generation and Distribution Corporation, Vellore, has refused to provide the electricity connection to the cell phone tower erected to the petitioner and the said order was challenged before this Court in W.P.No.3053 of 2023. The said Writ Petition was allowed after observing that the respondents therein cannot deny electricity connection to the petitioner especially after permission had been granted by the Competent Authority for erection of cell phone tower and a direction was issued to the respondents therein to provide electricity service connection.

5. In the light of the stand taken by the first respondent that No Objection Certificate was granted to the petitioner for erection of the cell phone tower in the above said place, based on the Structural Stability Certificate furnished by the petitioner through online portal, the petitioner has not made any case to interfere with the impugned order passed by the first respondent.



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6. When the matter is taken up for hearing, the learned Additional

Government Pleader appearing for the first respondent submitted that based on the complaint submitted by the petitioner regarding the dilapidated condition of the building, enquiry notice was issued to the sixth respondent for conducting enquiry with regard to the present condition of the building. However, the enquiry could not be completed as sixth respondent failed to appear for enquiry.

7. In these circumstances, it is open to the first respondent to conduct enquiry regarding the present condition of the building and pass appropriate orders, after giving proper opportunity to the sixth respondent within a period of three weeks from the date of receipt of copy of this order.

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

01.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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S.SOUNTHAR, J.

dna

To

- 1.The District Collector
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- 3.The Assistant Executive Engineer
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Office of the Executive Engineer,
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