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W.P.(MD)No.876 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.876 of 2023

S.Senthil Pandiyan

... Petitioner

Vs.

- 1.Union of India,
represented by its Secretary,
Ministry of Communication & Information Technology,
Electronics Niketan,
No.6, CGO Complex,
Lodhi Road,
New Delhi - 110 003.
- 2.The Principal Secretary to Government,
Department of Information Technology and Digital Service,
Fort St.George,
Chennai.
- 3.The District Collector,
Sivagangai District,
Sivagangai.
- 4.The Tahsildar,
Manamadurai Taluk,
Sivagangai District.
- 5.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.



6.The Managing Director,
Aircel Ltd.,
5th Floor, Spencer Plaza,
769, Anna Salai,
Chennai - 600 002.

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the installed Cellular Mobile Transmitting Equipment (CMTE) Tower to installation of BTS Shelter, Tower (40M Maximum) Antenna and other Telecom equipment from the open terrace of the petitioner's home situated at Door No.102-A, Old Post Office Street, Manamadurai, Sivagangai District, based on the petitioner's representation dated 30.12.2022.

For Petitioner	: Mr.A.Arumugam
For R1	: Mr.V.Malaiyendran Standing Counsel
For R2 to R5	: Mr.A.K.Manikkam Special Government Pleader

* * *

ORDER

Heard the learned counsel for the writ petitioner and the learned standing counsel for the first respondent. The learned Special Government Pleader for respondents 2 to 5. Service on the sixth respondent could not be effected.



2. The petitioner is the owner of the petition mentioned premises. He entered into a lease agreement with the sixth respondent for installing a mobile phone tower on the terrace of the building. The installation has taken place in the year 2007. The lease was valid up to 30.06.2019. The specific stand of the petitioner is that since 2014, the company has not been paying the monthly rental and it has also not been maintaining the mobile phone tower. The petitioner now wants to remove the same.

3. I cannot fasten the liability on the official respondents. It is for the petitioner to make his own arrangement for removing the mobile phone tower. I take judicial notice of the fact that the sixth respondent company is no longer a functioning enterprise. The petitioner is facing enormous hardship and loss on account of the non removal of the mobile phone tower. The petitioner can very well dismantle the mobile phone tower and dispose it of as scrap. The petitioner can very well appropriate the scrap proceeds. The specific stand of the petitioner is that since 2014, the petitioner has not been receiving any rental from the sixth respondent. Even in response to the notice issued by this Court, there is no response.



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4. Accordingly, this writ petition is allowed. No costs.

24.02.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

Note: Issue order copy on **01.03.2023**

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To

1. Union of India,
represented by its Secretary,
Ministry of Communication & Information Technology,
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G.R.SWAMINATHAN,J.

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