



W.P(MD)No.4892 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.4892 of 2023

and

W.M.P(MD)No.4581 of 2023

Indus Towers Ltd.,
(Formerly Bharti Infratel)
represented by its Authorized Signatory
S.Prasanna

... Petitioner

Vs.

- 1.The District Collector,
Thanjavur District.
- 2.The Assistant Director,
Town Planning Department,
Thanjavur District.
- 3.The Commissioner,
Thanjavur Municipality,
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to permit the petitioner to remove its mobile phone tower and its related materials, generator set etc, from the premises at No.20/1A, S.M.Road, Anu Street, Thanjavur District - 613007, based on the petitioners representation dated



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08.07.2022 sent by RPAD to the 1st respondent and being the subject matter of the communication dated 08.08.2022 from the 2nd respondent to the 3rd respondent in Naka No.3403/2022/A6.

For Petitioner : Mr.M.Ponniah

For R1 and R2 : Mr.J.Ashok
Additional Government Pleader

For R3 : Mr.N.Dilip Kumar

ORDER

The writ petition has been filed in the nature of a mandamus seeking a direction against the respondents, more particularly to the first respondent / District Collector, Thanjavur, to permit the petitioner to remove the mobile phone tower and materials including generator set and other set materials from the premises at No.20/1A, SM Road, Anu Street, Thanjavur-613 007.

2. The petitioner had given a representation dated 08.07.2022. The petitioner had the misfortune of entering into an agreement with the management of Hotel Temple Tower at the aforementioned address and they have been permitted by the said hotel authorities to put up a mobile phone tower at the roof of the hotel. Subsequently, owing to various circumstances, the building itself had been locked and sealed and now it is under the



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constructive possession of the first respondent / District Collector, Thanjavur.

The petitioner have given a representation to remove the mobile tower and the parts relating to the mobile tower including the generator.

3. Learned Additional Government Pleader on instruction stated that the mobile phone tower had been put up without any permission either being sought from, or granted by the first respondent.

4. It is stated that it was put up as an agreement between the petitioner with the management of Hotel Temple Tower. The petitioner may execute necessary indemnity bond that if ever there are claims from the management of Hotel Temple Tower or by any other third party private individual or by any authority, then the three respondents herein, the District Collector, Thanjavur District, the Assistant Director, Town Planning Department, Thanjavur District and the Commissioner, Thanjavur Municipality would not be responsible for any claim whatsoever. The petitioner may also execute an indemnity bond further that if any claim is made, that the petitioner alone would be responsible for such claim and would address such claim. After the petitioner executes such indemnity bond and any other undertaking as are required by the respondents, the first respondent may permit the petitioner / authorized



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representatives of the petitioner, who may be identified in advance and they may be permitted to remove the mobile tower and the generator set without causing any further damage to the building and if any damage is caused, again the petitioner must undertake to repair such damages to the said building. With these conditions in place, the petitioner may remove the mobile tower and generator and other parts from the said premises.

5. The petitioner may give necessary indemnity bond as required by the first respondent within a period of three weeks from the date of receipt of a copy of this order and within a further period of 3 weeks, the respondents may permit the petitioner to remove the mobile tower and all the parts connected to the mobile tower. Entire exercise may be completed within an outer period of eight weeks from the date of receipt of a copy of this order.

6. This writ petition is disposed of. Consequently, connected miscellaneous petition stands closed. No costs.

13.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

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Thanjavur District.
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WEB COPY



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C.V.KARTHIKEYAN, J.

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