



W.P(MD)No.12643 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 08.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P(MD)No.12643 of 2023 and  
WMP(MD) No.10669 of 2023

K.V.Jayaharini

... Petitioner

Vs

1.The District Collector,  
Tenkasi District,  
Tenkasi.

2.The Chief General Manager,  
BSNL,  
Tamil Nadu Circle,  
Greams Road,  
Chennai – 600 006.

3.The Tahsildar,  
Sengottai Taluk,  
Tenkasi District,  
Sengottai – 627 809.

4.The General Manager,  
BSNL,  
Admin Building,  
Vannarpettai,  
Tirunelveli – 627 003.

...Respondents



W.P(MD)No.12643 of 2023

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from erecting the BTS tower or carry out any other work relating to the same in front of the petitioner's land situate at New Survey No.967-1C1, Kannupullimettu, Keezhur Village, Sengottai Taluk, Tenkasi District measuring 77 cents and thereby protect the right of access of the petitioner to her land.

|                |                                                        |
|----------------|--------------------------------------------------------|
| For Petitioner | : Mr.V.Chandraprabhu                                   |
| For R1 & R3    | : Mrs.D.Farjana Ghoushia<br>Special Government Pleader |
| For R2 & R4    | : Mr.D.Shanmugaraja Sethupathy                         |
| Mediator       | : Mr.S.Deenadayalan                                    |

### **ORDER**

The petitioner with a grievance that the fourth respondent /BSNL is erecting BTS tower in front of the petitioner's property in New Survey No.967-1C1, Kannupullimettu, Keezhur Village, Sengottai Taluk, Tenkasi and the place in which, such construction sought to be made is the only approach to the petitioner's property has filed this writ petition for a Mandamus to forbear the respondents from erecting the BTS tower in front of the petitioner's land.



**W.P(MD)No.12643 of 2023**

2.This Court, while entertaining this writ petition has granted an order of interim stay on 25.05.2023. Thereafter, when this writ petition was taken up for hearing on 28.07.2023, the petitioner has come forward with an affidavit that she is ready to offer some other place from her property for erecting the BTS tower.

3.However, the learned counsel for the respondents 2 & 4 submitted that BSNL has already invested around Rs.10,00,000/- for laying foundation and for internal works. Therefore, it would not be feasible for them to change the location of the tower. On the other hand, the learned counsel for the petitioner submitted that the petitioner is also prepared to pay adequate compensation to BSNL, however, disputed the quantum of amount, which has been claimed to be spent. Considering the submissions made, this Court has appointed Mr.S.Deenadayalan, learned counsel as a Mediator to mediate and resolve this issue.

4.On the efforts taken by the Mediator, the issue between BSNL and the petitioner has been amicably resolved. BSNL has



W.P(MD)No.12643 of 2023

agreed to shift the tower to another location in the site identified by the petitioner from her patta land. The value of the construction made by BSNL in the present site is valued as Rs.4,82,393/- and the petitioner has agreed to bear this expense. Since the petitioner is providing an alternative site to the BSNL from her patta land, the present land, which has been allotted to BSNL from the Government Poromboke land for erecting the tower, shall be conveyed to the petitioner to use it as a pathway.

5.Considering this amicable settlement arrived between the parties, this writ petition is disposed of in the following terms:-

- a) The present site, which has been allotted to BSNL for the construction of the tower, shall be conveyed to the petitioner, through the District Collector, for using the same as her pathway.
- b) The petitioner shall execute a document in favour of the BSNL to the extent of 5 cents from her patta land, enabling the BSNL to erect the tower.



**W.P(MD)No.12643 of 2023**

- c) This exercise of mutually exchanging the sites between the parties shall be concluded within a period of six weeks from the date of receipt of a copy of this order.
- d) The petitioner, as agreed, has to bear the expenses incurred by BSNL to an extent of Rs.4,82,393/- towards erecting the tower in the present site. This amount has to be handed over on the date of execution of the documents to the concerned Contractor, through the BSNL officials.
- e) Considering the delay caused in view of the pendency of this writ petition, the BSNL officials shall not insist on the time limit prescribed for the completion of the contract / project. No costs. Consequently, connected Miscellaneous Petition is closed.

**08.12.2023**

NCC :Yes/No  
Index :Yes/No  
Internet:Yes  
vrn



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**B.PUGALENDHI, J.**

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**Order made in**  
**W.P(MD)No.12643 of 2023 and**  
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