



WP(MD)No.3958 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD).No.3958 of 2016
and
W.M.P.(MD).No.3542 of 2016

A.Srinivasan

... Petitioner

Vs

- 1.The Union of India,
Ministry of Telecommunications
& Information Technology,
No.107, I Floor, Sanchar Bhavan,
New Delhi.
- 2.The State of Tamil Nadu,
Represented by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai – 9.
- 3.The District Collector,
Madurai District,
Madurai.



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4.The Commissioner,
Madurai City Municipal Corporation,
Anna Maaligai,
Tallakulam,
Madurai -2.

5.The Managing Director,
Reliance Jio Infocomm Ltd,
III Floor, Makar Chamber,
IV, 222, Nariman Point,
Mumbai – 400 021.

6.A.R.Subbiah Chettiar

... 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 1 to 4 not to permit the erection of the Cellular Transmission Tower by the fifth respondent or any other Telecom tower service provider in the property of the sixth respondent at No. C-241, Kamarajar Street, Thirunagar, Madurai -625 006.

For Petitioner	: Mr.J.Parekh Kumar
For R1	: Mr.A.Srinivasan
For R2 to R4	: Mr.J.K.Jeyaseelan Government Advocate.
For R5	: No appearance
For R6	:Mr.R.G.Shankar Ganesh



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ORDER

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With a grievance that the fifth respondent has attempted to erect a Cellular Transmission Tower in the sixth respondent vacant site, the petitioner has approached this Court.

2. According to the learned counsel for the petitioner, the fifth respondent and the sixth respondent have not obtained the required permission from the Planning authorities for erection of a Cellular Tower. He also claims that the proposed tower may cause health issues to the nearby residents as the width of the road is very minimum. Therefore, he sought for a relief restraining the respondents from erecting any cellular tower in the property of the sixth respondent.

3. The learned counsel appearing for the sixth respondent submits that the cellular tower was already erected in the year 2016 and it is functioning since then without any problem. He also relied on a decision of a Division Bench in WP(MD) No.15974 of 2019 etc., batch,



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dated 29.08.2019, wherein, this Court directed the service providers to get necessary permission from the District Collectors concerned.

4. It is brought to the notice of this Court that the fifth respondent has obtained permission from the District Collector for erection of this Cellular Tower on 15.08.2022. Moreover, the Indian Telegraph Rules have been amended and as per Rule 10(b), no such condition has been prescribed. For better appreciation, Section 10(b) of Indian Telegraph Act, 1885 is extracted as under:

10(b). The Central Government shall not acquire any right other than that of use only in the property under, over, along, across in or upon which the telegraph authority places any telegraph line or post;

5. This writ petition was filed in the year 2016. It appears that the tower was erected and a permission was also obtained from the District Collector. Indian Telegraph Rules does not prescribe any such



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conditions.

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6.In view of the above, this Court is not inclined to entertain this writ petition and accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No.

Internet : Yes / No.

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B.PUGALENDHI, J.

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