



W.P.No.21485 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM :

THE HON'BLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.No.21485 of 2024 and

WMP No.23449 of 2024

Subash

... Petitioner

Vs.

1. The District Collector,
Office of the District Collector, Salem District.
2. The District Revenue Officer, Salem District.
3. The Commissioner of Corporation, Salem District.
4. The Tahsildar (North),
Office of Tahsildar, Kannakurichi Main Road,
Kurukkal Colony, Manakkadu, Salem District.
5. The Inspector of Police, Ammapettai Police Station,
Salem District.
6. Perumal, s/o late Ara Goundar
7. Balamurugan , s/o late Ara Goundar

Page 1 of 7



W.P.No.21485 of 2024

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8. Venkatesh, s/o late Ara Goundar

9. Shanthi

10. Thangamani

11. M/s Bharathi Airtel Limited,
Head Office at No.101, Bharathi Towers,
Santhome High Road, Santhome,
Chennai-28.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents 1 to 4 to take appropriate action against the fifth and sixth respondents to take immediate steps to stop the erection of cell phone tower situated in S.No.25/3F3A & S.No.25/3F2B to an extent of 2470 sq.ft. and 570 sq.ft. Putthu Mariamman Kovil Street backside, Anna Nagar 2nd Cross Street, Salem District by considering the petitioner's representation dated 02.07.2024 and 18.07.2024, within stipulated time, fixed by this court.

For Petitioner : Mr.M.Dinesh

For Respondents : Mr.A.Edwin Prabhakar,
State Government Pleader
for respondents 1, 2 and 4
Ms.W.Devi, Standing Counsel



W.P.No.21485 of 2024

for third respondent

Mr.R.Muniyapparaj,

Additional Public Prosecutor,

assisted by Mr.M.Sylvester John

for fifth respondent.

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed to direct the respondents 1 to 4 to take appropriate action against the fifth and sixth respondents, directing them to stop the erection of cell phone tower in the subject matter of the property by considering the petitioner's representation dated 02.07.2024 and 18.07.2024, within a stipulated time, as fixed by this court.

2. According to the petitioner, the eleventh respondent is taking steps to erect Cell phone Tower in the subject matter of the property, which is located in the residential area and already a cell phone tower is in existence in the very same area. Further, in the above said locality, temple, primary health centre and school are there, within 10 feet distance from the proposed installation of cell phone tower and if it is allowed to be installed, the



W.P.No.21485 of 2024

radiation from the tower causes various health problems to the human beings. The petitioner along with general public have given representations dated 02.07.2024 and 18.07.2024 to the respondents, however, there was no response from them. Hence this writ petition has been filed.

3. The learned State Government Pleader, on instructions, submitted that, an application for erection of Indus Tower in S.Nos.25/3F3A and 25/3F2B in Ammapettai Town Village, was received by the Tahsildar, Salem and the same is under progress for field enquiry.

4. From the submission made by the learned State Government Pleader, it is clear that, till now, no permission was granted for erecting the Cell Phone Tower in the subject matter of the property to the eleventh respondent and the application is pending for field enquiry. In such circumstances, we are of the view that the prayer as sought for in the writ petition is pre-mature one.

5. However, considering the facts and circumstances of the case, we



W.P.No.21485 of 2024

inclined to pass the following order.

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After field enquiry, if the first respondent decided to consider the application of the eleventh respondent to erect cell phone Tower, it shall be proceeded only after considering the petitioner's representation dated 2.7.2024 and also giving opportunity of hearing to the petitioner as well as the eleventh respondent. Thereafter, the first respondent shall pass appropriate orders in accordance with law.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K., A.CJ.)

(K.B.J.)

Internet: Yes/No
Index : Yes/No
mst

30.07.2024

To

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Page 5 of 7



W.P.No.21485 of 2024

WEB COPY

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W.P.No.21485 of 2024

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and

K. KUMARESH BABU, J.

mst

W.P.No.21485 of 2024

30.07.2024