



WP No.28434 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2024

CORAM:

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B. BALAJI

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Indus Towers Limited
Represented by its Authorized Signatory
Mr.S.Prasanna,
No.5, ESPEE IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthangal, Chennai -600 097.

... Petitioner

versus

- 1.The Commissioner,
Greater Chennai Corporation ,
The Ripon Building,
53, Raja Muthiah Road,
Periamet, Kannappar Thidal,
Poongavanapuram, Chennai-600003.
- 2.The Executive Engineer II,
Zone 13, Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai, Adyar,
Chennai-600020.



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3.The Assistant Executive Engineer,
Unit-40 (A), Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai, Adyar,
Chennai-600020.

4.The Assistant Engineer,
Division 175, Greater Chennai Corporation,
No.115, Dr.Muthulakshmi Salai, Adyar,
Chennai-600020.

5.Dr.Ramani

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari to call for the records relating to the impugned notice dated 21.08.2024 in Notice No.DIV/175/004/2024 issued by the respondents 2 to 4 and quash the same as illegal insofar as it relates to the cell phone tower of the petitioner.

For Petitioner : Mr.Anil Sandeep

For Respondents 1 to 4 : Mrs.P.T.Ramadevi
Standing Counsel for Corporation

ORDER

(Made by D. KRISHNAKUMAR, J.)

Writ petition is filed challenging the notice dated 21.08.2024 in Notice No.DIV/175/004/2024 issued by the respondents 2 to 4 and quash the same as illegal insofar as it relates to the cell phone tower of the petitioner.

2. By consent of parties, this writ petition is taken for final



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disposal.

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3. The petitioner is a company incorporated under the Indian Companies Act, 1956 engaged in the business of establishing and maintaining telecommunication infrastructure, including mobile towers, throughout Tamil Nadu and other parts of India. According to the petitioner company, it has entered into a lease agreement with the fifth respondent landlord for the purpose of installing a mobile tower in the property in question. Subsequently, respondents 2 to 4 issued a notice dated 21.08.2024 under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, demanding sealing and removal of unauthorized structures, including the petitioner's mobile tower. Challenging the same, the petitioner has filed the present writ petition.

4. During the course of arguments, learned Standing Counsel appearing for the respondent Corporation brought to the notice of this Court that the land owner/5th respondent has submitted a revised planning approval before the authority concerned and the same is pending. Further submitted



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that the property in question has to be used only for the purpose of running nursery school as per the existing approved plan. But now it has been used for residential building with tower. There is also deviation in the property in question. Therefore, lock and seal notice has been issued to the land owner/5th respondent. Challenging the same, the land owner has filed an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971. The Government has disposed of the said appeal vide letter No.1230/UD-VII(1)/2023-3, dated 10.05.2024 and granted three months time to rectify the defects. The relevant portion in the letter is extracted hereunder:

7. Considering the above facts and submissions made, the Government hereby dispose the revision petition with the following directions:-

Greater Chennai Corporation shall issue revised Lock & Seal and Demolition notice indicating the existence of cell phone tower in the petitioner plot no.R43 within 10 days.

Three months time is granted to the revision petitioners from the date of issue of revised Lock & Seal and Demolition notice to rectify the deviations in the building and to obtain necessary approval for the rectified building and covering the existing Telecommunication tower as per Tamil Nadu Combined Development and Building Rules, 2019.

Till such time there shall be a stay on



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further enforcement action against the petitioners building.

On expiry of the time granted, Greater Chennai Corporation shall proceed to take further enforcement action, as per the provisions in Tamil Nadu Town and Country Planning Act, 1971, if the petitioner failed to comply the above directions within the time specified.

The objector may file a separate representation to Chennai Metropolitan Development Authority for taking action against the unauthorised layout/subdivision of plot R79 allotted by Tamil Nadu Housing Board (TNHB).

8. The special revision petition filed by Dr.A.Pandurangan and Tmt.V.Ramani Pandurangan under Section 80-A and stay petition under section 80-A(3) of Tamil Nadu Town and Country Planning Act, 1971 are disposed accordingly.

5. Learned Standing Counsel for the respondent Corporation further submits that if necessary, the respondent Corporation will taken action against the petitioner by following the procedure as contemplated under the rules and proceed in accordance with law against the petitioner, after considering the revising planning approval submitted by the fifth respondent landlord.

6. Recording the aforesaid submissions by the learned Standing Counsel for the Corporation, we are inclined to pass orders as follows:



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i) Impugned notice dated 21.08.2024 is quashed.

ii) If necessary, the respondent Corporation shall follow the procedure as contemplated under the rules and proceed in accordance with law as against the petitioner, after the disposal of the fifth respondent revised plan approval.

7. With the above directions, the writ petition stands allowed. There shall be no order as to costs. Consequently, WMP Nos.31004 and 31005 of 2024 are closed.

(D.K.K., J.) (P.B.B., J.)
17.10.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

To
1. The Commissioner,
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