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W.P.No.20189 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.20189 of 2024

G.RAMESH

... Petitioner

Vs

1. THE DISTRICT COLLECTOR
KANCHIPURAM DISTRICT.
2. THE DISTRICT REVENUE OFFICER,
KANCHIPURAM DISTRICT.
3. THE REVENUE DIVISIONAL OFFICER,
KANCHIPURAM REVENUE DIVISION.
4. THE TAHSILDAR,
KANCHIPURAM TALUK.
5. THE REVENUE INSPECTOR,
KANCHIPURAM REVENUE FIRKA.
6. THE VILLAGE ADMINISTRATIVE OFFICER
SEVILIMEDU VILLAGE.
7. GTL INFRASTRUCTURE LIMITED,
REPRESENTED BY ITS MANAGER,
HAVING OFFICE AT
OLD NO.232 & 186,
CITY CENTER 3RD FLOOR,
PURASAWALKAM HIGH ROAD,
KILPAUK, CHENNAI-600 010.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents 1 to 6 to remove the Mobile Transmitting Tower and other equipment from petitioner's land measuring about 2400 sq.ft situated at Sevilimedu Village of Kanchipuram District in Survey Nos.240/2A, 240/2B1.

For Petitioner : Mr.V.Gopal

For R1 to R6 : Dr.S.Suriya
Additional Government Pleader

For R7 : Mr.S.Dhakshinamoorthy

ORDER

This writ petition is filed for a direction or order in the nature of a mandamus directing the first to sixth respondents to remove the Mobile Transmitting Tower and other equipments from the petitioner's land measuring about 2400 sq.ft situated at Sevilimedu Village of Kanchipuram District in Survey Nos. 240/2A, 240/2B1.

2. The learned counsel for the petitioner would submit that initially, the seventh respondent was given permission by the petitioner to install the tower on a rental basis. The period expired as early as on 30.04.2018 and even though seven years have passed and no rent has been paid, the towers have



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not been removed. Under normal circumstances, the petitioner would have resorted to such other remedies. However, since the tower is related to transmission and because it was installed based on the license given by the first respondent, the District Collector, the petitioner has approached this Court. On an earlier occasion in similar matter, this Court had directed the Tahsildar to remove the towers by an order in W.P.(MD).No. 15878 of 2023. The operative portion of the said order is extracted hereunder:-

“4. The third respondent is directed to issue notice to the fourth respondent granting twelve weeks to remove the mobile phone tower. If within the said period, the fourth respondent fails to remove the same, the third respondent shall remove the cell phone tower by employing the Government machinery. The resulting scrap can be sold by the third respondent and the sale proceeds can also be appropriated to the Government account. This writ petition stands allowed accordingly. No costs”

Therefore, the learned counsel for the petitioner prays for similar relief in this matter.

3. The learned counsel appearing on behalf of the seventh respondent would submit that the seventh respondent is currently facing insolvency



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proceedings and the matter is pending before the appropriate authorities under the Insolvency and Bankruptcy Code (IBC). The facilities are also mortgaged to certain financial creditors. Therefore, at this stage, the seventh respondent on its own cannot remove or dismantle the tower or take any other action regarding the same. In view of these difficulties, the learned counsel for the seventh respondent submits that the relief cannot be granted.

4. I have considered the rival submissions made on either side and also heard the learned Additional Government Pleader appearing on behalf of the first to sixth respondents.

5. It can be seen that in similar matters, orders have been granted by this Court for the removal of the towers. The only thing is that, when the tower is dismantled or removed, who has to take away the movables is the only question. There is some difficulty on the part of the seventh respondent regarding whether it can remove the tower itself or whether it has to inform the financial creditor or resolution professional appointed in the insolvency proceedings, are all the difficulties faced by the seventh respondent. In view



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thereof and considering the said difficulties prayed, this writ petition is disposed of on the following terms:-

(i) Four weeks time from the date of receipt of the website-uploaded copy of the order is given to the seventh respondent. The seventh respondent may either remove the tower itself or approach the financial creditor or the Resolution Professional to remove the tower.

(ii) Upon the expiry of the four weeks, the petitioner shall submit a copy of this order along with the memo to the fourth respondent herein namely the Tahsildar, Kanchipuram Taluk.

(iii) Within three weeks thereafter, the fourth respondent shall engage appropriate labour, dismantle the entire tower and remove it . The removed items can be kept near the place or in such manner as the Tahsildar decides.

(iv) Initially, the charges for removal shall be borne by the petitioner. The seventh respondent or any other person claiming through the seventh respondent can take away the dismantled portions of the tower or its spare parts by duly paying the charges incurred during the dismantling process to the Tahsildar. The Tahsildar shall, in turn, refund the amount to the petitioner.

(v) If the dismantled machinery is not removed by the



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seventh respondent or any person claiming through them, within six months, it shall be auctioned by the Tahsildar. Out of the resultant amount, the petitioner will be first reimbursed for the amount spent on dismantling and the balance shall be kept in deposit for the seventh respondent or any person including the resolution professional, claiming through them, to claim the money after deducting any charges payable to the fourth respondent, the Tahsildar.

(vi) No costs.

13.02.2025

Neutral Citation: Yes/No
nsl

To

1. THE DISTRICT COLLECTOR
KANCHIPURAM DISTRICT.
2. THE DISTRICT REVENUE OFFICER,
KANCHIPURAM DISTRICT.
3. THE REVENUE DIVISIONAL OFFICER,
KANCHIPURAM REVENUE DIVISION.
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SEVILIMEDU VILLAGE.

6/7



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nsI

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