



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2015

CORAM:

WEB COPY

THE HONOURABLE MS. JUSTICE V.M. VELUMANI

Crl.O.P(MD)No.22482 of 2015

M/s.ATC India Town Corporation(P) Limited,
Rep. by its Authorised Signatory/
Circle Operation Head,
Having Circle Office at 443/304,
Guna Complex, Annexure -1, Third Floor,
Anna Salai, Teynampet,
Chennai - 600 018.

... Petitioner

Vs

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Inspector of Police,
Town Police Station,
Aruppukottai
Virudhunagar District

... Respondents

PRAYER: This petition is preferred under Section 482 Cr.P.C to direct the respondents to give protection to the petitioner while doing installation works of the telecommunication tower at S.F.No.20/2, Plot Nos.69, 70 and 71, Periyapulampatti Village, Aruppukottai, Virudhunagar District, as per the petitioner's complaint dated 25.09.2015.

For Petitioner : Mr.M.Saravanan

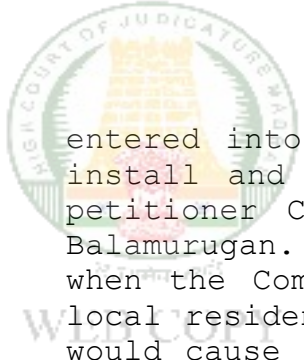
For Respondents : Mrs.S.Prabha

Government Advocate (Crl.Side)

ORDER

The petitioner approaches this Court to direct the respondents to give protection to the petitioner while doing installation works of the telecommunication tower at S.F.No.20/2, Plot Nos.69, 70 and 71, Periyapulampatti Village, Aruppukottai, Virudhunagar District, as per the petitioner's complaint dated 25.09.2015.

2. Mr.M.Saravanan, learned counsel appearing for the petitioner would submit that the petitioner company viz., "ATC India Tower Corporation Private Ltd.", is a telecom service providers in India and the Company has obtained a license from the Department of Telecom, Ministry of Communication, Government of India, as a infrastructure provider. Adding further, the learned counsel would submit that the Company has



entered into a lease agreement, dated 09.09.2015 with one Balamurugan to install and operate telecommunication infrastructure. Subsequently, the petitioner Company took possession of the premises from the above said Balamurugan. Continuing further, the learned counsel would submit that, when the Company started the work viz., erection of telecom tower, the local residents obstructed the works under the wrong apprehension that it would cause danger due to emission of radiation. Concluding his argument, the learned counsel would submit that the apprehension of the local residents is baseless, as it has been scientifically proved that the radiation emanates from the tower is not harmful for any one. Therefore, petitioner has come forward with this application, for the relief as stated supra.

3.Mr.S.Prabha, the learned Government Advocate (criminal side) appearing for the respondents would submit that there are objections by the local residents and various Associations on the ground that it would be a health hazard for the future generation like children to grow up. Therefore, the respondent refused to give permission and protection to the petitioner for installation of telecommunication tower.

4. I have heard the learned counsel appearing on either side and perused the materials available on record.

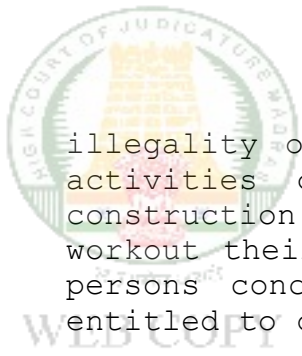
5. The issue has been taken up by the Hon'ble First Bench and while delivering the judgment in W.P.Nos.24976 of 2008 etc., batch, this Court, in para Nos.10 and 11, held as follows:-

"10.We are, thus, of the view that in a judicial proceedings these aspects cannot be analysed. There being no materials atleast as on date, which can finally suggest any health hazard from these towers and the solution thereof, the Court would not venture into uncharted territory of technical expertise to determine the area where it should be installed. The Court, at best can place this matter before the appropriate Committee to look into this matter which the Kerala High Court already did and we have the benefit of the conclusion arrived at in those proceedings, as noticed above.

11.We are of the view that no further directions are required in these matters, other than to say that the concerned authorities would continue to analysis the materials as and when it emerges to look into the concern raised by the petitioners, especially, in view of the fact that there is no final view as yet on these aspects. Science grows and evolves and one does not know what may happen tomorrow. It is, in this context, we have made these observations."

6.Further, this Court has dealt with the very same issue in CrI.O.P.(MD) Nos.6885 and 6895 of 2015 and held that the law regarding establishment of cellphone towers has already been dealt with and in the absence of any illegality or unlawful activities, no one can interfere with the lawful activities of a person concerned. The relevant portion of the order reads as follows:-

<https://hcservices.ecourts.gov.in/hcservices/> regarding establishment of cellphone towers has already been dealt with in the judgments referred supra. in the absence of any



illegality or unlawful activities, no one can interfere with the lawful activities of a person concerned. If there is any objection for construction and erection of cellphone towers, the objectors will have to workout their remedy in the manner known to law instead of preventing the persons concerned from putting up construction, which they are legally entitled to do so."

7. Admittedly, there is no materials before this Court that installation of telecommunication tower would create health hazard. Further, this Court in the unreported judgment cited supra, granted police protection for installation of telecommunication tower. Just because of objections are raised, without any scientific basis, in my considered opinion, the authorities cannot refuse police protection and there is no justification to refuse the same.

8. In the result, the criminal original petition is ordered. The respondents are directed to give police protection to the petitioner while doing installation works of telecommunication tower at S.F.No.20/2, Plot Nos.69, 70, and 71, Periyapuliampatti Village, Aruppukkottai, Virudhunagar District.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

To

1. The Superintendent of Police,
Virudhunagar District, Virudhunagar.
2. The Inspector of Police,
Town Police Station, Aruppukkottai
Virudhunagar District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.M.SARAVANAN , Advocate in SR.No. 68108

TS/07.12.2015/3P-5C/NGM-SS/SAR - II

ORDER MADE IN

Cr1.O.P (MD) No.22482 of 2015

27.11.2015