

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.03.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P. No. 5924 of 2017

Ascend Telecom Infrastructures Pvt. Ltd.,
Rep.by its Authorised Signatory
K.S.Guru Moorthy,
Aged 54 years, S/o.Samy Lala,
No.54/32, Butt Road Street,
Thomas Mount, Chennai. .. Petitioner

versus

- 1.The Inspector of Police,
Kanchipuram Taluk Police Station,
Kanchipuram District.
- 2.The Superintendent of Police,
Kanchipuram District. .. Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. to direct the 1st to 2nd respondents to give adequate police protection to the petitioner for erection of cell phone tower in Survey No.115/1, Plot Nos.46, 47, 34 and 35, Bhavani Amman Residential Plots, Putheri Village, Kanchipuram Taluk, Kanchipuram SRO, Kanchipuram District and protect the law and order problem.

For Petitioner : Mr.S.Ramajayam

For Respondents : Mr.C.Emalias
Additional Public Prosecutor

O R D E R

The present criminal original petition has been filed seeking a direction to the respondents to provide adequate police protection to the petitioner for erection of cell phone tower in survey no.115/1, at Plot Nos.46, 47, 34 and 35 of Bhavani Amman Residential Plots, Putheri Village, Kanchipuram Taluk, Kanchipuram SRO, Kanchipuram District.

2. The case of the petitioner is that they are carrying on the business of erection of cell phone towers from various places. During the course of such business, they had entered

into a lease agreement with one Mahalakshmi for erection of cell phone tower in the property in S.No.115/1, Plot Nos.46, 47, 34 and 35 of Bhavani Amman Residential Plots at Putheri Village, Kanchipuram Taluk, Kanchipuram SRO, Kanchipuram District. When the petitioner had gone to the said land for the purpose of cell phone tower erection work, the rowdy elements had obstructed the same, which resulted in registration of C.S.R.No.293 of 2017. Hence, the petitioner has requested the respondents to provide police protection to build the cell phone tower. However, the said request was not considered by the respondents. Therefore, they have come up with the present petition for the above stated relief.

3. Learned counsel appearing for the petitioner submitted that the petitioner, having obtained all necessary permission, is trying to build and erect the cell phone tower at the property in question, to cater the needs of mobile phone users residing in the locality, however, the same is objected by some people with an intention to extract money from them. Learned counsel further submitted that on earlier occasion, the petitioner has approached this Court for the very same purpose in respect of another land by filing Crl.OP. (MD) No.12751/2016, which was, by order dated 16.11.2016, disposed of, by granting police protection to the petitioner. Thus, he sought for similar direction in this petition also.

4. On the above submissions, I have heard the learned Additional Public Prosecutor and perused the entire materials available on record.

5. This Court, by order dated 16.11.2016, has disposed of the petition in Crl.OP (MD) No.12751 of 2016, filed by the petitioner for the very same relief in respect of different property. For better appreciation, the relevant paragraphs of the said order are extracted hereunder:

"3.Learned counsel for the petitioner relied on the decision of a Division Bench of this Court in W.P.Nos.24976 of 2008 etc. batch cases and the decision of a learned Single Judge of this Court in Crl.OP (MD) Nos.12596 to 12599 of 2014 and 12601 to 12619 of 2014 would submit that without any basis their activities cannot be stopped.

4.Learned Government Advocate (Criminal Side) on instructions submitted that the petition is pending.

5.The law regarding establishment of cell phone 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.

6. Accordingly, the criminal original petition is disposed of with a direction to the respondents to give adequate police protection, if there are no legal impediments."

Following the same, this Court is inclined to dispose of the present petition in the above terms.

6. Accordingly, this Criminal Original Petition is disposed of, with a direction to the respondents to give adequate police protection, if there are no legal impediments, for carrying out the work of cell phone tower erection. However, the same will be at the cost of the petitioner.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

To

1. The Inspector of Police,
Kanchipuram Taluk Police Station,
Kanchipuram District.
 2. The Superintendent of Police,
Kanchipuram District.
 3. The Public Prosecutor, High Court, Madras.
- +1cc to Mr. Ramajayam, Advocate Sr. 19102

Cr1.O.P. No. 5924 of 2017

MG (CO)
VR (28/03/2017)