

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.3592 of 2018

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

Vs

- 1.The Superintendent of Police,
Kancheepuram District.
- 2.The Inspector of Police
Maraimalai Nagar Police Station,
Kancheepuram District (CSR.No.1557/2017)
3. V. Gangadurai
(R3 impleaded as per order dated 01.03.2018
passed in Crl.MP No. 3147 of 2018) ... Respondents

Prayer : Criminal Original Petition filed under Section 482 Cr.P.C. to pass an order directing the respondent to provide necessary police protection to the petitioner to carry on the mobile phone tower building, erection and operation works at the premises being about 800 sq ft. of landed property comprised in Grama Natham Old S.No.88-B/1, New S.No.123/16 and New S.No.123/17 at Kuppakariammal Koil Street, No.86, Thirutheri Village, Chengalpattu Taluk, Kancheepuram District.

For Petitioner : Mr.S.Anil Sandeep
For Respondents : Ms. Kritika Kamal for RR1 and 2
Government Advocate (Crl.Side)
Mr.N.VijayaBaskar for R3

O R D E R

The prayer sought for in the present petition is to direct respondent to provide necessary police protection to the petitioner to carry on the mobile phone tower building, erection and operation

works at the premises being about 800 sq ft. of landed property comprised in Grama Natham Old S.No.88-B/1, New S.No.123/16 and New S.No.123/17 at Kuppakariamman Koil Street, No.86, Thirutheri Village, Chengalpattu Taluk, Kancheepuram District.

2. In an identical case, this Court had, by an order dated 16.11.2016 in Crl.O.P.(MD).No.12751 of 2016 and Crl.O.P.No.5924 of 2017 dated 27.03.2017 passed the following order.

"3.Learned counsel for the petitioner relied on the decision of a Division Bench of this Court in W.P.Nos.24976 of 2008 ect. 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."

The facts and the findings in the aforesaid case are also applicable to the present case in hand.

3. The third impleaded respondent submits that he is the owner of the property in Grama Natham Old S.No.88-B/1 and New S.No.123/2016 and New S.No.123/2017 at Kuppakariamman Koil Street, No.86, Thirutheri Village, Chengalpattu Taluk, Kancheepuram District and as such, he has no objection, if the petitioner is permitted to put up the Cell Phone Tower in his premises.

4. The learned counsel appearing for the petitioner at this juncture submitted that even though the property is classified by the Grama Natham, it may not be said that the property vested with the Government and as such the objection need not be considered. In this

case, the learned counsel for the petitioner relied upon by the judgment reported in CDJ 2004 Madras High Court 1466 (The Executive Officer, Kadathur Town Panchayat, Harur Taluk, Dharmapuri District Vs. Swaminathan & Others). The relevant portion of said paragraph read as here under;

11. Similarly, this Court in Thillaivanam, A.K. and another V. District Collector, Chengai Anna District and 3 others, 1998 (3) L.W.603 and in Krishnamurthy Gounder V. Government of Tamil Nadu, 2002 (3) CTC 221 held that the house sites classified as 'Grama Natham' cannot be constructed as vesting with the Government.

12. Further, 'Grama Natham' is defined in the Law Lexicon as "ground set apart on which the house of village may be built". Similarly, Natham land is described in Tamil lexicon published under the authority of University of Madras to the effect that it is a residential portion of a village; or portion of a village inhabited by the non-Brahmins; or land reserved as house sites; etc.

13. In the light of the above and in view of the fact that the admitted classification of the land being a 'Grama Natham', it is obvious that the land was never vested with the Government or the Town Panchayat. Inasmuch as the petitioners and their ancestors were in exclusive possession of the lands in question for the past 40 years, the impugned order of the third respondent in cancelling the pattas with a view to evict them summarily at the instance of the resolution passed by the Panchayat is not sustainable. Further such a summary eviction is not permissible in law when the disputed question of title is involved for adjudications as laid down by the Apex Court in number of decisions.

5. As observed by the Hon'ble Division Bench of this Court, the Government may not sale a land, which is classified as Grama Natham in which the petitioner is claimed to be. In view of the observations are self explanatory and in view of the same, the third impleaded respondent may not be justified in raising these objections, on the ground that the land is classified by the Grama Natham.

With the above observations, the Criminal Original Petition is ordered accordingly.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

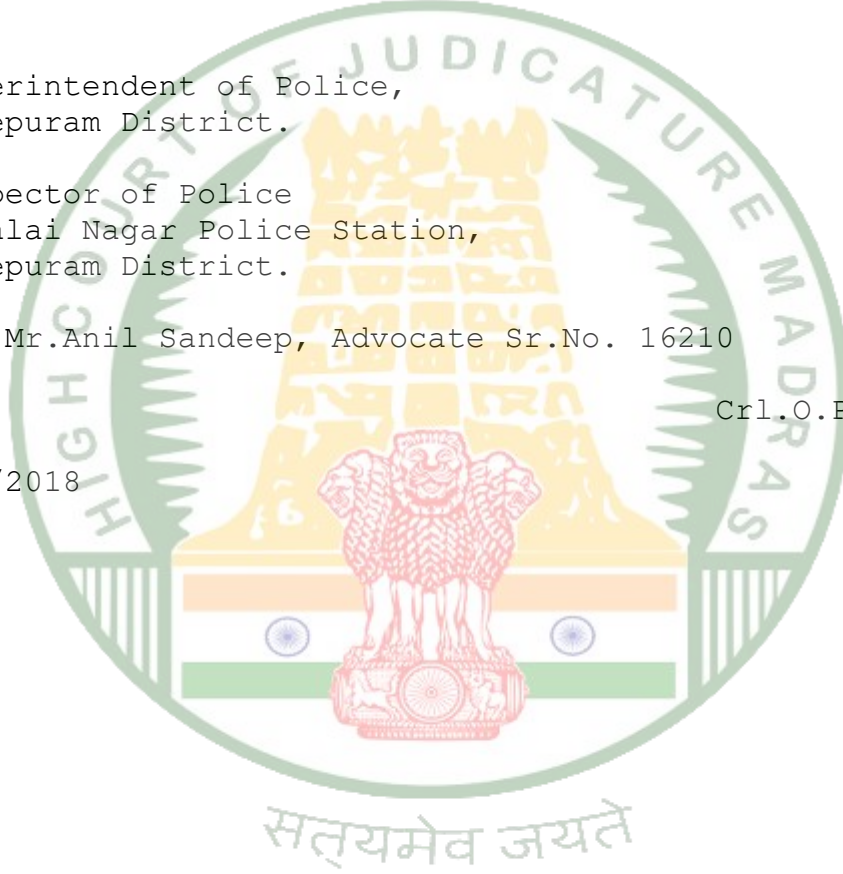
1.The Superintendent of Police,
Kancheepuram District.

2.The Inspector of Police
Maraimalai Nagar Police Station,
Kancheepuram District.

+ 1 cc to Mr.Anil Sandeep, Advocate Sr.No. 16210

Cr1.O.P.No.3592 of 2018

CO(LRS)
RRI 04/04/2018



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