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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.09.2018
CORAM
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
W.P(MD)No.19279 of 2018

M/s.Reliance Jio Infocomm Limited,
Rep. Through its Legal Manager,
Having its circle office at
A1 Tower 8th Floor,
89-90, Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004. ... Petitioner

-Vs-

The Inspector of Police,
Kariapatti Police Station,
Virudhunagar District. ... Respondent

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to provide effective police protection for erection of transmission cell phone tower and to install the telecommunication electrical and electronics equipments, OFC cable and the maintenance work on the said BTS Transmission Tower at Pandian Nagar, Roja Street, Kariapatti, Virudhunagar District.

For Petitioner : Mr.R.G.Shankar Ganesh
For Respondent : Mr.B.Bhagawathi,
Government Advocate.

ORDER

This petition has been filed for a direction to the respondent to provide effective police protection for erection of transmission cell phone tower and to install the telecommunication electrical and electronics equipments, OFC cable and the maintenance work on the said BTS Transmission Tower at Pandian Nagar, Roja Street, Kariapatti, Virudhunagar District.

2. The case of the petitioner is that the petitioner is engaged in the business of providing broadband internet services and other allied services throughout India. For the said purpose, cell phone towers are going to be erected. The petitioner had also entered into a lease agreement with the owner of the property and had taken steps to install the cell phone tower. Already, the Government of Tamil Nadu has granted exemption to all the Telecom companies to install the cell phone towers by virtue of Government Order passed in G.O.Ms.No.2, dated 01.04.2002.

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3. When the petitioner attempted to erect the cell phone tower, the residents of the area came to the spot and started causing hindrance to the company officials from carrying out the construction work. The petitioner also gave a representation to the respondent Police to provide them with protection. However, the respondent Police had not acted upon the said complaint and therefore, the present Writ Petition has been filed.

4. The learned counsel appearing for the petitioner would submit that the issue involved in this Writ Petition is covered by the earlier Judgments of this Court. The learned counsel brought to the notice of this Court the order passed by this Court in Crl.O.P.No.16618 of 2018, wherein the very same petitioner was a party.

5. It will be appropriate to extract the relevant portions of the order in Crl.O.P.No.16618 of 2018, which is extracted hereunder:-

> *"2.The learned counsel for the petitioner would submit that the petitioner's company had the contract agreement for installation of cell phone tower with M/s.Indus Towers Limited, a company registered under the provisions of Indian Companies Act, 1956. It is further submitted by the learned counsel for the petitioner that whenever the petitioner's company attempted to erect transmission cell phone tower, publics are causing interference. The learned counsel for the petitioner also submitted that by order dated 05.03.2015, the Honourable First Bench of this Court, in W.P.Nos.24976 of 2008 and etc., batch, held that because of the advancement in the science, no one has prevented to erect cell phone towers. It is also submitted that the petitioner has given a complaint dated 24.02.2016 to the first respondent police seeking police protection, for which C.S.R.No.42 of 2016 and since the same has not been considered so far, he has come up with the present petition for the relief stated supra.*
>
> *3.Heard the learned Additional Public Prosecutor appearing for the respondent.*
>
> *4.Considering the facts and circumstances of the case, the petitioner is directed to send a fresh representation to the respondent and on receipt of the same, the respondent is directed to consider the representation to be submitted by the petitioner and pass appropriate orders on merits and in accordance with law, within a period of one week from the date of receipt of copy of this order.*
>
> *5.With the above directions, this Criminal Original Petition is disposed of."*

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6. This Court has consistently taken the view that no one can be prevented from erecting the cell phone towers on a mere apprehension about the effect of radiation from the cell phone tower. The apprehension does not have a scientific backing. Till a positive finding is given in this regard, cell phone towers cannot be prevented to be installed on mere apprehensions.

7. For the reasons stated above, there shall be a direction to the respondent Police to provide police protection to the petitioner for erection of the cell phone tower. The respondent police shall ensure that the entire process goes on in a smooth manner, without giving raise to any law and order problem.

8. The Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Inspector of Police,
Kariapatti Police Station,
Virudhunagar District.

+1cc to The Spl. Government Pleader Sr.No.83104
+1cc to Mr.R.G.Shankar Ganesh, Advocate Sr.No.83024

PS

VB/RP/SAR1/01.10.2018/3P/4C

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