



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.9235 of 2019

WEB COPY

M/s.ATC Telecom Infrastructure Private Limited,
Rep. by its Authorised Signatory,
Mr.N.Senathipathi, Legal Manager,
Having Circle Office at "Celestial Point",
No.45, Damodharan Street,
Opposite to T.Nagar Bus Stand,
T.Nagar, Chennai-600 017. ... Petitioner

Vs

- 1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 2.The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam,
Virudhunagar District. ... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to direct the respondents to give police protection to the life and limb of the petitioner's employees/workers to complete installation and commissioning of the telecommunication tower at S.F.No.549/1A, Resurvey No.549/1A1, North Venghanallur Village, Rajapalayam T.K. and SRO, Virudhunagar, Registration District, Virudhunagar District -626117, as per the petitioner's complaint daed 29.05.2019.

For Petitioner : Mr.K.Govindarajan
for M/s.V.Muthu Kamatchi

For Respondents : Mr.A.Robinson
Government Advocate (Crl.side)

ORDER

This petition has been filed for directing the respondents to provide protection to erect the telecommunication tower and to do the incidental works at the petition mentioned site.

2.The petitioner is ready to bear the necessary cost that may be incurred in providing such police protection. This Court raised a doubt as to whether the petitioner is justified in straight away moving this Court and asking for police protection, without having an enforceable order or decree of the Civil Court in his favour.



3. The learned counsel appearing for the petitioner, without giving a direct answer to the query posed by this Court, chose to draw my attention to the similar orders passed by various Judges of this Court in this regard. The petitioner had enclosed a copy of the order dated 07.06.2019 in CrI.O.P.(MD)No.14444 of 2019 filed by M/s.Reliance JioInfocomm Limited, seeking an relief identical to the one now sought. After referring to the orders passed by the Hon'ble Division Bench, the learned Judge observed as follows:-

"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 second respondent police to provide police protection to the petitioner for erection of the cell phone tower. The second respondent shall ensure that the entire process goes on in a smooth manner, without giving raise to any law and order problem."

4. When a large number of such orders have been passed by this Court, I am of the view that judicial discipline requires that I too should stick to the same path without raising any uncomfortable question based on first principles. Hence, the second respondent is directed to provide police protection to the petitioner for erection of the cellphone tower. The second respondent shall ensure that the entire process goes on in a smooth manner, without giving raise to any law and order problem.

5. This criminal original petition is disposed of with the above direction.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

rmi

To

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



2. The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam,
Virudhunagar District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC TO MR.V.MUTHU KAMATCHI, Advocate Sr. No. 72891

Cr1.O.P(MD)No.9235 of 2019

NS (CO)

TR (10.07.2019) 3P 5C