



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2019

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. (MD)No.22258 of 2019

M/s.Indus Towers Ltd
Having its Circle Office at 5(NP),
ESPEE, IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthangal, Chennai-97,
Rep. by its Assistant Legal Manager,
S.Prasanna

... Petitioner

Vs.

1.The District Collector,
District Collector Office,
Madurai District, Madurai.

2.The Commissioner of Police,
Madurai City, Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, Directing the first respondent herein to expeditious dispose the Application dated 23.09.2019 filed by the petitioner and consequently direct the second respondent herein to provide the effective police protection to the petitioner company to erect the cell phone transmission tower at Madurai District, Madurai North Taluk, Thiruppaalai Group, Siruthur Village, Sri Meenathciyammam Nagar, Resurvey No.214/1 and 215/2 and New Resurvey No.214/1A and 215/2A in Plot No.222 within a limits of Kannanendhal Panchayat.

For Petitioner : Mr.R.Murali
For Respondents : Mr.P.Kannidevan
Additional Government Pleader

O R D E R

This writ petition has been filed to direct the second respondent herein to provide the effective police protection to the petitioner company to erect the cell phone transmission tower at Madurai District, Madurai North Taluk, Thiruppaalai Group, Siruthur Village, Sri Meenathciyammam Nagar, Resurvey No.214/1 and 215/2 and New Resurvey No.214/1A and 215/2A in Plot No.222 within a limits of Kannanendhal Panchayat.



2. Heard both sides.

3. The Hon'ble Division Bench of this Court in a batch of Writ Petitions in W.P.No.7544 of 2017 and 15144 of 2019, dated 22.08.2019 held as follows:

"21. The said judgment has come prior to G.O.Ms.No.1 dated 21/2/2018 which makes the position very clear. In view of the above, we hold that general permission to any licenced telecom company and erect towers can be granted subject to the terms and conditions, laid down in G.O.Ms.No.2 dated 01.04.2002, passed by the Information Technology Department.

22. Keeping in mind the statement of Mr.Om Prakash, learned Senior counsel that his clients have approached the Officers concerned and they have not processed the request further, we direct Indus Towers Limited, Chennai, sixth respondent in W.P.No.15144 of 2017 and tenth respondent in W.P.No.7544 of 2017, to make a fresh application, in terms of G.O.Ms.No.2, Information Technology Department, dated 1/4/2002, for erection of towers (even if they are already installed), within a period of three weeks from the date of receipt of a copy of this order. On receipt of the same, respondent Nos.1 to 4 in W.P.No.15144 of 2017 are directed to consider the application and take a decision in accordance with law, within a period of six weeks, thereafter.

23. In those areas where Mobile Towers have been erected without following the G.O.Ms.No.2, Information Technology Department, dated 1/4/2002, the Collectors are directed to issue notices to the operators directing them to make applications for erection of the Mobile Towers, within one week from the date of receipt of this order and on the receipt of the application, the District Collectors shall pass orders on merits in accordance with rules, but not later than three weeks and issue directions in accordance with the decision taken.

24. With the above direction, writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed. "

4. Here, in the case on hand, the petitioner sought for a direction, directing the second respondent police to provide adequate police protection to erect the cell phone transmission tower at Madurai District, Madurai North Taluk, Thiruppaalai Group, Siruthur Village, Sri Meenathciyammam Nagar, Resurvey No.214/1 and 215/2 and New Resurvey No.214/1A and 215/2A in Plot No.222 within a



5.In view of the order passed by the Hon'ble Division Bench of this Court, the petitioner is directed to file an application in view of the G.O.(Ms).No.2, Information Technology Department, dated 01.04.2002 before the concerned District, seeking permission to erect the Cellphone Tower. On receipt of such application, the concerned District Collector is directed to pass order on merits and in accordance with law within a period of four weeks from the date of application. If the District Collector granted permission, to erect the Cellphone Tower, the petitioner is at liberty to seek adequate police protection to the concerned jurisdictional police and it may be considered by the concerned Police after conducting enquiry with the objectors and pass orders on merits and in accordance with law.

6.With the above observations, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

vsg

To

- 1.The District Collector,
District Collector Office,
Madurai District, Madurai.
- 2.The Commissioner of Police,
Madurai City, Madurai.
- 3.The Additional Public Prosecutor,
Madurai Behcn of Madras High Court,
Madurai.

W.P. (MD)No.22258 of 2019
23.10.2019

VB(06.11.2019) 3P 4C