

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2020

CORAM

HONOURABLE MR. JUSTICE G.K. ILANTHIRAIYAN

CRL.OP.Nos.9251, 9253 to 9255, 9257, 9258, 9292 to 9294 of 2020

M/s. Indus Towers Limited,
having its circle office at 5 (NP),
ESPEE, IT Park, 5th Floor,
Jawaharlal Nehru Road,
Ekkattuthangal,
Chennai-600 097
represented by its Assistant Legal Manager
S.Prasanna ... Petitioner in all Crl.O.P.s

Vs.

1. The Commissioner of Police,
Commissioner of Police Office,
Chennai City.
2. The Assistant Commissioner of Police,
MKB Nagar, Chennai City.
3. The Inspector of Police,
P5 MKB Nagar Police Station,
Chennai.
4. The District Collector,
District Collector Office,
Chennai.
5. The Commissioner,
Greater Chennai Corporation,
Chennai.

... Respondents in
Crl.O.P. 9251/2020

1. The Commissioner of Police,
Commissioner of Police Office,
Chennai City.
2. The Assistant Commissioner of Police,
MKB Nagar, Chennai City.
3. The Inspector of Police,
P6 Kodungaiyur Police Station,
Chennai.

4. The District Collector,
District Collector Office,
Chennai.

5. The Commissioner,
Greater Chennai Corporation,
Chennai.

.. Respondents in

CrI.O.P.No.9253/2020

1. The Superintendent of Police,
Superintendent of Police Office,
Thiruvallur.

2. The Deputy Superintendent of Police,
Thiruvallur.

3. The Inspector of Police,
Manavala Nagar Police Station,
Thiruvallur.

4. The District Collector,
District Collector Office,
Thiruvallur.

5. The Municipal Commissioner,
Municipal Corporation,
Thiruvallur District.

.. Respondents in

CrI.O.P. 9254/2020

1. The Commissioner of Police,
Commissioner of Police Office,
Coimbatore City.

2. The Assistant Commissioner of Police,
Coimbatore Central, Coimbatore City.

3. The Inspector of Police,
B11 Saibaba Colony Police Station,
Coimbatore.

4. The District Collector,
District Collector Office,
Coimbatore.

5. The Municipal Commissioner,
Municipal Corporation,
Coimbatore City.

.. Respondents in

CrI.O.P. 9255/2020

1. The Commissioner of Police,
Commissioner of Police Office,
Chennai City.
2. The Assistant Commissioner of Police,
Madhavaram, Chennai City.
3. The Inspector of Police,
M1 Madhavaram Police Station,
Chennai.
4. The District Collector,
District Collector Office,
Chennai.
5. The Commissioner,
Greater Chennai Corporation,
Chennai.

.. Respondents in
Crl.O.P. 9257/2020

1. The Superintendent of Police,
Superintendent of Police Office,
Salem.
2. The Deputy Superintendent of Police,
Attur, Salem District.
3. The Inspector of Police,
Attur Town Police Station,
Attur, Salem District.
4. The District Collector,
District Collector Office,
Salem.
5. The Municipal Commissioner,
Municipal Corporation,
Salem District.

.. Respondents in
Crl.O.P. 9258/2020

1. The Commissioner of Police,
Commissioner of Police Office,
Chennai City.
2. The Assistant Commissioner of Police,
MKB Nagar, Chennai City.
3. The Inspector of Police,
P5 MKB Nagar Police Station,
Chennai.

4. The District Collector,
District Collector Office,
Chennai.

5. The Commissioner,
Greater Chennai Corporation,
Chennai.

.. Respondents in
Crl. O.P. 9292/2020

1. The Commissioner of Police,
Commissioner of Police Office,
Salem City.

2. The Assistant Commissioner of Police,
Hasthampatti, Salem City.

3. The Inspector of Police,
Hasthampatti Police Station,
Salem.

4. The District Collector,
District Collector Office,
Salem.

5. The Municipal Commissioner,
Municipal Corporation,
Salem City.

.. Respondents in
Crl.O.P.9293/2020

1. The Commissioner of Police,
Commissioner of Police Office,
Chennai City.

2. The Assistant Commissioner of Police,
Madipakkam, Chennai City.

3. The Inspector of Police,
S10 Pallikaranai Police Station,
Chennai.

4. The District Collector,
District Collector Office,
Chennai.

5. The Commissioner,
Greater Chennai Corporation,
Chennai.

.. Respondents in
Crl.O.P. 9294/2020

PRAYER in CrI.O.P. 9251 of 2020 : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure Code seeking to direct the respondents 1 to 3 to provide the effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical and electronics equipments, OFC cable and its maintenance work on the said BTS transmission tower at Chennai-39, Viyasarpadi, Perambur Village, Sasthiri Nagar, 8th Street, Plot No.356, Door No.468, S.F. No.779/23, T.S. No.141, Plot No.421, and also to direct the 4th and 5th respondents to co-operate with respondents 1 to 3 as per the letter dated 26.03.2020 issued by the Additional Chief Secretary to Government of Tamil Nadu vide letter No.45324/IT(E)/2020 and a letter dated 20.04.2020 issued by the Government of India, Ministry of Communications, Department of Telecommunication vide letter No. Lr.No.DDG(Technology)/ TN-LSA/DM/Covid-19/20-21/02.

PRAYER in CrI. O.P. 9253 of 2020 : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure Code seeking to direct the respondents 1 to 3 to provide effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical and electronics equipments, OFC cable and its maintenance work on the said BTS transmission tower at No.13, Meenambal Sivaraj Street, Kodungaiyur, Chennai-600 051. The said property presently in Chennai Corporation limit, as per TSLR copy Kodungaiyur Village, Meenambal Sivaraj Street, bearing Door No.13, Block No.13, T.S. No.69 and also to direct the 4th and 5th respondents to co-operate with respondents 1 to 3 as per the letter dated 26.03.2020 issued by the Additional Chief Secretary to Government of Tamil Nadu vide letter No.45324/IT(E)/2020 and a letter dated 20.04.2020 issued by the Government of India, Ministry of Communications, Department of Telecommunication vide letter No. Lr.No.DDG (Technology)/ TN-LSA/DM/Covid-19/20-21/02.

PRAYER in CrI. O.P. 9254 of 2020 : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure Code seeking to direct the respondents 1 to 3 to provide effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical and electronics equipments, OFC cable and its maintenance work on the said BTS transmission tower at No.2, Veerama Munivar Street, Kabilar Nagar, Manavala Nagar, Thiruvallur-602 001 and also to direct the 4th and 5th respondents to co-operate with respondents 1 to 3 as per the letter dated 26.03.2020 issued by the Additional Chief Secretary to Government of Tamil Nadu vide letter No.45324/IT(E)/2020 and

a letter dated 20.04.2020 issued by the Government of India, Ministry of Communications, Department of Telecommunication vide letter No. Lr.No.DDG(Technology)/ TN-LSA/DM/Covid-19/20-21/02.

PRAYER in Crl. O.P. 9255 of 2020 : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure Code seeking to direct the respondents 1 to 3 to provide effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical and electronics equipments, OFC cable and its maintenance work on the said BTS transmission tower at Coimbatore District and Taluk, Telgupalayam Village in S.F. No.476. The said property is in Maruthakonar Street, VLT No.186704. The said property is in Coimbatore Corporation limit and also to direct the 4th and 5th respondents to co-operate with respondents 1 to 3 as per the letter dated 26.03.2020 issued by the Additional Chief Secretary to Government of Tamil Nadu vide letter No.45324/IT(E)/2020 and a letter dated 20.04.2020 issued by the Government of India, Ministry of Communications, Department of Telecommunication vide letter No. Lr.No.DDG (Technology)/ TN-LSA/DM/Covid-19/20-21/02.

PRAYER in Crl. O.P. 9257 of 2020 : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure Code seeking to direct the respondents 1 to 3 to provide effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical and electronics equipments, OFC cable and its maintenance work on the said BTS transmission tower at Old Ambattur Taluk, presently Madhavaram Taluk, Madhavaram Village, Survey No.445 Part, as per register in T.S. No.1, Block No.10, Ward No.B limit, Mandaveli 3rd Street, bearing at Door No.6/16, Ambattur, Chennai. The said property in the limit of Chennai Corporation and Madhavaram Zone-3 and also direct the 4th and 5th respondents to co-operate with respondents 1 to 3 as per the letter dated 26.03.2020 issued by the Additional Chief Secretary to Government of Tamil Nadu vide letter No.45324/IT(E)/2020 and a letter dated 20.04.2020 issued by the Government of India, Ministry of Communications, Department of Telecommunication vide letter No. Lr.No.DDG (Technology)/ TN-LSA/DM/Covid-19/20-21/02.

PRAYER in Crl.O.P. 9258 of 2020 : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure Code seeking to direct the respondents 1 to 3 to provide effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical and electronics equipments, OFC cable and its maintenance work on the said BTS transmission

tower at No.102/28C, Puthiyakallanatham Road, Mullaivadi, Attur, Salem-636 141 and also direct the 4th and 5th respondents to co-operate with respondents 1 to 3 as per the letter dated 26.03.2020 issued by the Additional Chief Secretary to Government of Tamil Nadu vide letter No.45324/IT(E)/2020 and a letter dated 20.04.2020 issued by the Government of India, Ministry of Communications, Department of Telecommunication vide letter No. Lr.No.DDG(Technology)/ TN-LSA/DM/Covid-19/20-21/02.

PRAYER in Crl.O.P. 9292 of 2020 : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure Code seeking to direct the respondents 1 to 3 to provide effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical and electronics equipments, OFC cable and its maintenance work on the said BTS transmission tower at Chennai District, Purasaivakkam-Perambur Taluk, Perambur Village, Block No.36, R.S. No.730/11, Debar Nagar Thittapaguthi, 10th Street, Plot No.59, bearing Door No.152, Vysarpadi, Chennai-600 039 and also direct the 4th and 5th respondents to co-operate with respondents 1 to 3 as per the letter dated 26.03.2020 issued by the Additional Chief Secretary to Government of Tamil Nadu vide letter No.45324/IT(E)/2020 and a letter dated 20.04.2020 issued by the Government of India, Ministry of Communications, Department of Telecommunication vide letter No. Lr.No.DDG(Technology)/ TN-LSA/DM/Covid-19/20-21/02.

PRAYER in Crl.O.P. 9293 of 2020 : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure Code seeking to direct the respondents 1 to 3 to provide effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical and electronics equipments, OFC cable and its maintenance work on the said BTS transmission tower at No.222/5, Marimuthu Gounder Street, Chinnapudur, Salem-636 007 and also direct the 4th and 5th respondents to co-operate with respondents 1 to 3 as per the letter dated 26.03.2020 issued by the Additional Chief Secretary to Government of Tamil Nadu vide letter No.45324/IT(E)/2020 and a letter dated 20.04.2020 issued by the Government of India, Ministry of Communications, Department of Telecommunication vide letter No. Lr.No.DDG(Technology)/ TN-LSA/DM/Covid-19/20-21/02.

PRAYER in Crl.O.P. 9294 of 2020 : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure Code seeking to direct the respondents 1 to 3 to provide effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical and electronics equipments, OFC cable and its maintenance work on the said BTS transmission

tower at Chennai District, Sozhinganallur Taluk, Medavakkam Graham, Survey No.400A/14, Plot No.14, as per Tax Property Receipt bearing Door No.6/180, Anna Street and also direct the 4th and 5th respondents to co-operate with respondents 1 to 3 as per the letter dated 26.03.2020 issued by the Additional Chief Secretary to Government of Tamil Nadu vide letter No.45324/IT (E)/2020 and a letter dated 20.04.2020 issued by the Government of India, Ministry of Communications, Department of Telecommunication vide letter No. Lr.No.DDG(Technology)/ TN-LSA/DM/Covid-19/20-21/02.

For Petitioner

in all Crl.OP:Mr.K.Govindarajan

for Mr.P.Tilak Kumar

For Respondents

in all Crl.OP:Mr. M.Mohamed Riyaz,

Additional Public Prosecutor

C O M M O N O R D E R

These Criminal Original Petitions have been filed seeking for a direction to the respondents 1 to 3 to provide adequate police protection to the petitioner's company and its staff and subordinates to erect, commissioning of equipments and to radiate the transmission tower at the lease sites mentioned therein.

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. 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 dated 20.04.2020 to the 4th respondent to provide them with protection. However, the respondent Police had not acted upon the said complaint and therefore, the present Criminal Original Petitions have been filed.

3. The learned counsel appearing for the petitioner would submit that the issue involved in these petitions are covered by the earlier Judgments of this Court. The learned counsel brought

to the notice of this Court the order dated 28.06.2018, passed by this Court in CrI.O.P.No.16618 of 2018, wherein the very same petitioner was a party.

4. It will be appropriate to extract the relevant portions of the order in CrI.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, public is 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."

5. 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.

6. For the reasons stated above, there shall be a direction to the 3rd respondent to provide police protection to the petitioner for erection of the cell phone tower. The 1st respondent police shall ensure that the entire process goes on in a smooth manner, without giving raise to any law and order problem and the petitioner shall pay a cost of Rs.10,000/- (Rupees Ten thousand only) for each petition, to the 3rd respondent police respectively towards police protection.

7. These Criminal Original Petitions are disposed of with the above direction.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
Commissioner of Police Office,
Chennai City.

2. The Assistant Commissioner of Police,
MKB Nagar, Chennai City.

3. The Inspector of Police,
P5 MKB Nagar Police Station,
Chennai.

4. The District Collector,
District Collector Office,
Chennai.

5. The Commissioner,
Greater Chennai Corporation,
Chennai.

6. The Inspector of Police,
P6 Kodungaiyur Police Station,
Chennai.
7. The Superintendent of Police,
Superintendent of Police Office,
Thiruvallur.
8. The Deputy Superintendent of Police,
Thiruvallur.
9. The Inspector of Police,
Manavala Nagar Police Station,
Thiruvallur.
10. The District Collector,
District Collector Office,
Thiruvallur.
11. The Municipal Commissioner,
Municipal Corporation,
Thiruvallur District.
12. The Commissioner of Police,
Commissioner of Police Office,
Coimbatore City.
13. The Assistant Commissioner of Police,
Coimbatore Central, Coimbatore City.
14. The Inspector of Police,
B11 Saibaba Colony Police Station,
Coimbatore.
15. The District Collector,
District Collector Office,
Coimbatore.
16. The Municipal Commissioner,
Municipal Corporation,
Coimbatore City.
17. The Assistant Commissioner of Police,
Madhavaram, Chennai City.
18. The Inspector of Police,
M1 Madhavaram Police Station,
Chennai.

19. The Superintendent of Police,
Superintendent of Police Office,
Salem.
20. The Deputy Superintendent of Police,
Attur, Salem District.
21. The Inspector of Police,
Attur Town Police Station,
Attur, Salem District.
22. The District Collector,
District Collector Office,
Salem.
23. The Municipal Commissioner,
Municipal Corporation,
Salem District.
24. The Commissioner of Police,
Commissioner of Police Office,
Salem City.
25. The Assistant Commissioner of Police,
Hasthampatti, Salem City.
26. The Inspector of Police,
Hasthampatti Police Station,
Salem.
27. The Assistant Commissioner of Police,
Madipakkam, Chennai City.
28. The Municipal Commissioner,
Municipal Corporation,
Salem City.
29. The Inspector of Police,
S10 Pallikaranai Police Station,
Chennai.
30. The Public Prosecutor,
Madras High Court,
Chennai.

CRL OPs 9251, 9253 to 9255, 9257,
9258, 9292 to 9294 of 2020

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srg 31/07/2020