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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.17811 of 2021
and W.M.P.No. 19011 of 2021

M/s.Summit Digital Infrastructure Private Limited,
Formerly known as Reliance Jio Infratel Private Ltd.,
Represented by K.Kumaresan ... Petitioner

Versus

1. The Superintendent of Police,
Salem,
Salem District.
2. The Inspector of Police,
Kannankurichi Police Station,
Salem District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondents to provide adequate police protection to the Petitioner Company and its staff and subordinates to erect, commissioning of equipments and to radiate the transmission tower at the lease site namely Site ID No. I-TN-SLEM-ENB-0425 situated at land admeasuring about 400 square feet, in the terrace and open space about 100 square feet totally 500 sq.ft. out of 2175 sq.ft. comprised in Salem District, Salem Taluk, Kannankurichi Village, Survey No.15/1, Plot No.10 situated within the Registration District of Salem West and Sub Registrar Office of Salem West.

For Petitioner : Mr. A.M.Venkatakrishnan
For Respondents : Mr.A.Damodaran,
Government Advocate (Crl.Side)



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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."

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 2nd respondent police to provide police protection to the petitioner for erection of the cell phone tower. The 2nd respondent police shall ensure that the entire process goes on in a smooth manner, without giving rise to any law and order problem.



8. Accordingly, this writ petition is disposed of with the above direction. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpp/dsn

To

- 1.The Superintendent of Police,
Salem,
Salem District.
- 2.The Inspector of Police,
Kannankurichi Police Station,
Salem District.

W.P.No.17811 of 2021
&
W.M.P.No. 19011 of 2021

GP (CO)
PR (24/09/2021)