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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.457 of 2022

and

W.M.P.No.508 of 2022

M/s.Ascend Telecom Infrastructure Private Limited,
Represented by its Authorized Signatory,
Mr.Tamilselvan,
Old No.32, New No.54,
Butt Road, St Thomas Mount,
Near Kathipara Junction,
Chennai - 600 016.

... Petitioner

Versus

1. The Superintendent of Police,
Mayiladuthurai District.
2. The Inspector of Police,
Kuthalam Police Station,
Mayiladuthurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ, Order or Direction in the nature of 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.0012417, property being portion of the land 1200 Sq.Ft out of 523 Sq.Mtr situated at Old Survey No.125, New Survey No.744/6, Patta No.1610, Kuthalam Taluk in the boundary of Kuthalam municipality before Umampalapuram now it is Kuthalam Revenue Village, Kaliyamman Kovil Street, situated within the Registration District of Mayiladuthurai, Sub Registration District of Kuthalam.

For Petitioner : Mr.A.M.Venkatakrisnan

For Respondents : Mr.R.Vinothraja,
Government Advocate (Crl. Side)



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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."

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. This writ petition is disposed of with the above direction. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Mayiladuthurai District.
2. The Inspector of Police,
Kuthalam Police Station,
Mayiladuthurai.
3. The Public Prosecutor,
High Court, Madras.

W.P.No.457 of 2022

MT[co]
NSK 10/02/2022