



WEB COPY



W.P.No.10888 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE **SUNDER MOHAN**

W.P.No.10888 of 2023

M/s.Tower Vision India Private Ltd.
Rep. by its Authorized Signatory,
Mr. B.Kaladharan - Circle Head,
Having office at Basement No. 28 AMG Tower,
Lawyer Jagannathan Street.

...Petitioner

Vs.

1 The Superintendent of Police,
Tiruvallur District

2 The Inspector of Police,
Pattabiram Police Station,
Pattabiram Tiruvallur District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Mandamus, the respondents to provide effective police protection to the petitioner company personnel, vendors and contractors for installation of cell phone towers in respect of work site bearing property survey No. 243/2, Plot No.22, Thandurai Village, Gopalapuram Poonamalle Taluk, Tiruvallur District based on complaint dated 24.02.2023 and pass such order or orders as this Hon'ble Court may be deem fit and proper in the circumstances of the case.



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For Petitioner

: M/s.A.M.Amutha Ganesh

For Respondent

: Mr.S.Santhosh,
Government Advocate (Crl. Side)

ORDER

The petition is filed seeking Writ of Mandamus, praying for a direction to the respondents to provide effective police protection to the petitioner company personnel, vendors and contractors for installation of cell phone towers in respect of work site bearing property survey No. 243/2, Plot No.22, Thandurai Village, Gopalapuram Poonamalle Taluk, Tiruvallur District.

2. The learned counsel for the petitioner would submit that on 29.12.2022, one local person had entered into the work site of the petitioner bearing Survey No. 243/2, Plot No.22, Thandurai Village, Gopalapuram Poonamalle Taluk, Tiruvallur District and restrained the employees of the petitioner and threatened them with physical assault and dire consequences if they continued their work. Hence, the petitioner had given complaint to the 2nd respondent. However, no action has been taken by the 2nd respondent. Therefore, this petition is filed to direct the respondents to provide effective police protection to the petitioner company's personnel, vendors & contractors for installation of cell phone towers.



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3. The learned Government Advocate (Crl. Side) submits that the complaint given by the petitioner was acknowledged and the 2nd respondent would take further action in accordance with law.

4. Learned counsel for the petitioner also brought to notice of the Order passed by this Court in W.P.No.7563 of 2021 in a similar situation, referring to the order passed in Crl.O.P.No.16618 of 2018, this court allowed the petition. It will be appropriate to extract the relevant portions of the order in Crl.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, publics are 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



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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.”



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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 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 raise to any law and order problem and the petitioner shall pay a cost of Rs.10,000/- (Rupees Ten thousand only) to the respondent police towards police protection

7. The Writ Petition is disposed of with the above direction. No costs.

11.04.2023

shr

Index :Yes/No

Internet :Yes/No

Neutral Citation: Yes/No



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To

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Tiruvallur District
- 2 The Inspector of Police,
Pattabiram Police Station,
Pattabiram Tiruvallur District.



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SUNDER MOHAN, J.

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