



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2023

CORAM:

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

W.P.No.13954 of 2023

Indus Towers Limited
Rep by its Authorized Signatory Mr.S.Prasanna,
No.5, ESPEE IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthangal, Chennai - 600 097.

.. Petitioner

Vs

1. The Superintendent of Police,
Thiruvannamalai District.
2. The Deputy Superintendent of Police,
Thiruvannamalai Division,
Thiruvannamalai District.
3. The Inspector of Police,
Aarni Rural Police Station,
Thiruvannamalai District.
4. The District Collector,
Thiruvannamalai District.
5. The Tahsildar,
Arani Taluk, Thiruvannamalai District.
6. The Commissioner,
Arani Municipality, Thiruvannamalai District.

.. Respondents



Prayer :- Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondents 1 to 3 to provide necessary police protection to the petitioner for their mobile phone tower works at the premises being about 1200 Sq Ft of land at T.S.No.316/3, 4, 5, 8, 9, Cheyyar Main Road, Irumbedu Village, Arani Taluk, Thiruvannamalai District, on the representation to the 3rd respondent under Online Acknowledgment No.HAD23050470 of 2023 dated 18.03.2023 and direct the respondents 4 to 7 to render necessary co-operation to the respondents 1 to 3 in the matter.

For Petitioner : Mr.S.Anil Sandeep

For Respondents:: Mr.S.Santhosh,
Government Advocate (Crl.side)

ORDER

This writ petition has been filed seeking for a direction to the respondents 1 to 3 to provide necessary police protection to the petitioner for their mobile phone tower works at the premises measuring about 1200 Sq Ft of land at T.S.No.316/3, 4, 5, 8, 9, Cheyyar Main Road, Irumbedu Village, Arani Taluk, Thiruvannamalai District, by considering the representation made to the 3rd respondent under Online Acknowledgment No.HAD23050470 of 2023, dated 18.03.2023 and direct the respondents 4 to 7 to render necessary co-operation to the respondents 1 to 3 in the matter.



2. The case of the petitioner is that the petitioner is a Company engaged, inter alia, in the business of establishing and maintaining telecommunication infrastructure assets. While so, the petitioner is commencing the work on one such tower at the premises of Mr.V.Panneer Selvam measuring about 1200 Sq Ft of land at T.S.No.316/3,4,5,8,9, Cheyyar Main Road, Irumbedu Village, Aarni Taluk, Thiruvannamalai District, after entering into the lease agreement dated 15.02.2023 with the land owned and also obtaining his consent, and SACFA approval from the WPC wing of the Department of Telecommunications (DOT) of the Government of India. However, some third persons in the area of the premises are objecting to the erection of the said tower for no plausible reason whatsoever, with the intention of extorting and extracting money from the petitioner. The petitioner made a representation dated 18.03.2023 to the third respondent for police protection. But no action has been taken. Hence, the petitioner has approached this Court requesting for police protection for the erection of the mobile phone tower.

3. The learned counsel appearing for the petitioner would submit that the issue involved in this petition is covered by the earlier Judgments



of this Court. The learned counsel brought to the notice of this Court the order passed by this Court in Crl.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 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 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.



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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 mobile phone towers on a mere apprehension about the effect of radiation from the mobile phone tower. The apprehension does not have a scientific backing. Till a positive finding is given in this regard, mobile phone towers cannot be prevented to be installed on mere apprehensions.

6. For the reasons stated above, there shall be a direction to the respondents 1 to 3 to provide police protection to the petitioner for erection of the mobile phone tower. The 1st respondent police shall ensure that the entire process goes on in a smooth manner, without giving rise to any law and order problem and the petitioner shall pay



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a cost of Rs.10,000/- (Rupees Ten thousand only) to the third respondent towards police protection.

7. The writ petition is disposed of with the above direction. No costs.

04.05.2023

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

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To

1. The Superintendent of Police,
Thiruvannamalai District.
2. The Deputy Superintendent of Police,
Thiruvannamalai Division,
Thiruvannamalai District.
3. The Inspector of Police,
Aarni Rural Police Station,
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