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W.p.No.15249 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.05.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

W.P No.15249 of 2023

M/s.Tower Vision India Private Ltd.
Rep. by its Authorized Signatory,
Mr.R.M. Nagappan - Circle Head,
Having office at Basement No. 28 AMG Tower,
Lawyer Jagannathan Street, Alandur
Chennai – 600 016.

... Petitioner

Vs.

1. The Commissioner of Police,
Chennai District
- 2 The Deputy Commissioner of Police,
Adyar, Chennai.
3. The Inspector of Police,
J8 Neelangari Police Station,
Chennai

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus directing the respondents to provide effective police protection to the petitioner's company personnel, vendors and contractors for installation of cell phone towers in respect of work site bearing property survey No. 408/1A, Door No.2/1565 A, 11th Cross Street, Mahatma Gandhi Nagar Okkiyam Thoraipakam Village, Chennai based on complaint dated 10.11.2021 and 20.01.2022.



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For Petitioner : M/s.A.M.Amutha Ganesh
For Respondents : Mr. E. Raj Thilak
Additional Public Prosecutor

ORDER

The petition is filed seeking for issuance of a Writ of Mandamus, directing the respondents to provide effective police protection to the petitioner's company personnel, vendors and contractors for installation of cell phone towers in respect of work site bearing property survey No. 408/1A, Door No.2/1565 A, 11th Cross Street, Mahatma Gandhi Nagar Okkiyam Thoraipakam Village, Chennai.

2. The learned counsel for the petitioner would submit that on 09.11.2021, some local persons entered into the work site of the petitioner bearing Survey No.408/1A, Door No.2/1565 A, 11th Cross Street, Mahatma Gandhi Nagar Okkiyam Thoraipakam Village, Chennai and restrained the employees of the petitioner from carrying on their work and threatened them with physical assault and dire consequences. Hence, the employees of the petitioner's company lodged a complaint before the second and third respondents. However, no action has been taken by them till date. Therefore, this petition is filed to direct the respondents to provide effective police protection to the petitioner's company personnel, vendors & contractors for installation of cell phone towers.



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3. The learned Additional Public prosecutor (Crl. Side) submits that the complaint given by the petitioner was acknowledged and the respondents would take action on merits and in accordance with law.

4. Learned counsel for the petitioner also brought to the 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 passed 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, 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



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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 bearing. 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 police to provide police protection to the petitioner for erection of the cell phone tower. The 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 respondents police towards police protection.

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

10.05.2023

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Index :Yes/No
Internet :Yes/No
Neutral Citation: Yes/No



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SUNDER MOHAN, J.

smn

To

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Chennai District
- 2 The Deputy Commissioner of police,
Adayar, Chennai.
3. The Inspector of Police,
J8 Neelangari Police Station, Chennai

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