



W.P.No.18422 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

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

...Petitioner

Vs.

1.The Superintendent of Police,
Tiruvarur.

2.The Inspector of Police,
Kodavasal Police Station,
Kodavasal, Tiruvarur District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Mandamus, to direct the 1st and 2nd respondents to provide effective police protection to the Petitioners company and its staff, subordinate and to erect transmission cell phone tower in for the property being a portion of land of 1000 sq.feet out of the property 0.55.88 hectares, comprised in old Survey No.32/1A, new survey no.32/1A3 situated at Kodavasal village, Kodavasal taluk, Tiruvarur



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District, situated within the sub registration district of Tiruvarur, (previously within Madyiladuthurai and registration district of Kodavasal) based on the complaint dated 10.05.2023 with CSR No. 260/2023.

For Petitioner : M/s.M.Karpagam

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

ORDER

The Writ Petition has been filed to direct the respondents to direct the 1st and 2nd respondents to provide effective police protection to the Petitioners company and its staff, subordinate and to erect transmission cell phone tower in for the property being a portion of land of 1000 sq.feet out of the property 0.55.88 hectares, comprised in old Survey No.32/1A, new survey no.32/1A3 situated at Kodavasal village, Kodavasal taluk, Tiruvarur District, situated within the sub registration district of Tiruvarur, (previously within Madyiladuthurai and registration district of Kodavasal) based on the complaint dated 10.05.2023 with CSR No. 260/2023.

2. Learned counsel for the petitioner submitted that, the petitioner is a company registered under the Companies Act, 1956. Petitioner is a telecommunication service provider doing business of operation and



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maintenance of Mobile Towers including both voice and data services.

Petitioner entered into a lease Deed with one P.Santhanam to install cell phone towers in property bearing old Survey No.32/1A, new survey no.32/1A3 situated at Kodavasal village, Kodavasal taluk, Tiruvarur District. He further submitted that the persons residing in the nearby area are opposing the installation of cell phone towers. 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.

3. In response, learned Government Advocate (Criminal side) submitted that, petitioner gave a complaint in this regard on 10.05.2023 and on that basis, enquiry is pending.

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.

“5.It will be appropriate to extract the relevant portions of



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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 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



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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.

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Index :Yes/No
Internet :Yes/No
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To

1.The Superintendent of Police,
Tiruvarur.

2.The Inspector of Police,
Kodavasal Police Station,
Kodavasal, Tiruvarur District.

3.The Public Prosecutor,
High Court of Madras.

G.CHANDRASEKHARAN, J.



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