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W.P.No.18839 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.CHANDRASEKHARAN**

W.P.No.18839 of 2023

M/s Ascend Telecom Infrastructure Private Ltd.,
Represented by its Authorized Signatory,
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,
MIN Nagar, Ariyalur,
Tamil Nadu 621 704.

2. The Inspector of Police,
Jayakondam Police Station,
Ariyalur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, to direct the 1st and 2nd respondent to provide effective police protection to the petitioner's company and its staff, subordinate and to erect transmission cell phone tower situated on for all the piece and parcel of the property being portion of 900 sq feet of the land out of 96 sq



W.P.No.18839 of 2023

metres of the land property at Ariyalur registration district, Jayamkondam Sub registration district in the boundary of Ariyalur District, Udaiyarpalayam Taluk, Jayakondam Municipal, Periyavalaiyam (Madurai), Chinnavalayam Kudiyan Street, Nattam Patta No.180 in the Nattam New S.F.No.26/8D2 in Old S.F.No.26/8D limit registered as Document No.614 of 2022 II item C Schedule property in the partition deed dated 06.03.2022 based on the complaint dated 05.06.2023 with CSR No.571 of 2023.

For Petitioner : M/s.M.Karpagam
For Respondents : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the first and second respondents to provide effective police protection to the petitioner's company and its staff, subordinate and to erect transmission cell phone tower situated on for all the piece and parcel of the property being portion of 900 sq feet of the land out of 96 sq metres of the land property at Ariyalur registration district, Jayamkondam Sub registration district in the boundary of Ariyalur District, Udaiyarpalayam Taluk, Jayakondam Municipal, Periyavalaiyam (Madurai), Chinnavalayam Kudiyan Street, Nattam Patta No.180 in the Nattam New S.F.No.26/8D2 in Old S.F.No.26/8D limit registered as Document No.614 of



W.P.No.18839 of 2023

2022 II item C Schedule property in the partition deed dated 06.03.2022 based on the complaint dated 05.06.2023 with CSR No.571 of 2023.

2. The learned counsel for the petitioner submitted that, the petitioner obtained license under Department of Telecommunications, Ministry of Communications, Government of India as Infrastructure Provider Category I. Petitioner is a telecommunication service provider doing business of installation, operation and Maintenance of cell phone towers and other related works across the nation since 2006. Petitioner entered into a lease Deed with one Sumathra to install cell phone towers in property being portion of 900 sq feet of the land out of 96 sq metres of the land property in Nattam Patta No.180 in the Nattam New S.F.No.26/8D2 in Old S.F.No.26/8D situated at Ariyalur registration district, Jayamkondam Sub registration district in the boundary of Ariyalur District, Udaiyarpalayam Taluk, Jayakondam Municipal, Periyavalaiyam (Madurai), Chinnavalayam Kudiyan Street. 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 and contractors for installation of cell



W.P.No.18839 of 2023

phone towers.

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3. In response, learned Government Advocate (Criminal side) submitted that, petitioner gave a complaint in this regard on 05.06.2023 and on that basis, enquiry is pending in CSR.No.571 of 2023.

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 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.No.18839 of 2023

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.”

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



W.P.No.18839 of 2023

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. This Writ Petition is disposed of with the above direction. No Costs.

27.06.2023

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Index:Yes/No

Speaking Order: Yes/No



WEB COPY



W.P.No.18839 of 2023

G.CHANDRASEKHARAN.J.,

mn

To

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2. The Inspector of Police,
Jayakondam Police Station,
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3. The Public Prosecutor,
High Court of Madras.

W.P.No.18839 of 2023

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