



W.P.No.23465 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.23465 of 2023

S.Balakrishnan

...Petitioners

vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Tiruppur, Tamil Nadu 641 603

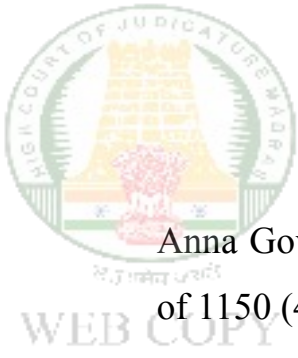
2.The Deputy Superintendent of Police,
Kangayam, Tiruppur,
NH 67, Chennimalai Road,
Tiruppur 638 701

3.The Inspector of Police,
Vellakoil Police Station,
WPW9+C32, Karur Road (Opp Union Office),
Vellakoil, Tiruppur, Tamil Nadu 638 111

...Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to give adequate police protection to erect, install and maintain the mobile phone tower in the property of the petitioner comprised in S.F.No.399, Natesan Nagar, Backside of Arignar



W.P.No.23465 of 2023

Anna Govt. School, Vellakoil, Kangayam Taluk, Tiruppur 638 111 of an extent of 1150 (46x25) sq feet within the Vellakoil Municipality, Tiruppur District.

For Petitioners : Mr.N.Ganesh

For Respondents : Mr.A.Damodaran

Additional Public Prosecutor

ORDER

This writ petition has been filed to direct the respondents to give adequate police protection to erect, install and maintain the mobile phone tower in the property of the petitioner comprised in S.F.No.399, Natesan Nagar, Backside of Arignar Anna Govt. School, Vellakoil, Kangayam Taluk, Tiruppur 638 111 of an extent of 1150 (46x25) sq feet within the Vellakoil Municipality, Tiruppur District.

2. The case of the petitioner is that the petitioner is the sole and absolute owner of the aforesaid land, which was leased out to M/s.Reliance Jio Info Comm Private Limited for erecting Mobile Phone Tower. The petitioner had also entered into a lease agreement with the said company and they had taken steps to install the cell phone tower. Already, the Government of Tamil Nadu has granted exemption to all the Telecom companies to install the cell phone



W.P.No.23465 of 2023

towers by virtue of Government Order passed in G.O.Ms.No.2, dated

01.04.2002.

3. When the petitioner attempted to erect the cell phone tower, the residents of the area came to the spot and started causing hindrance to the company officials from carrying out the construction work. The petitioner also gave a complaint dated 26.05.2023 to the third respondent to provide them with protection. However, the third respondent had not acted upon the said complaint and therefore, the present petition has been filed.

4. Learned counsel appearing for 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.

5. It will be appropriate to extract the relevant portions of the order in Crl.O.P.No.16618 of 2018 and the same 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



W.P.No.23465 of 2023

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 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."

6. 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.



W.P.No.23465 of 2023

7. For the reasons stated above, there shall be a direction to the second and third respondent police to provide police protection to the petitioner for erection of the cell phone tower. The second 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 a cost of Rs.10,000/- (Rupees Ten thousand only) to the respondent police towards police protection. If the third respondent does not provide police protection, it is left open to the petitioner to approach the first respondent

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

10.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
nsa



W.P.No.23465 of 2023

To

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Tiruppur, Tamil Nadu 641 603
- 2.The Deputy Superintendent of Police,
Kangayam, Tiruppur,
NH 67, Chennimalai Road,
Tiruppur 638 701
- 3.The Inspector of Police,
Vellakoil Police Station,
WPW9+C32, Karur Road (Opp Union Office),
Vellakoil, Tiruppur, Tamil Nadu 638 111
- 4.The Public Prosecutor,
Madras High Court,
Chennai 600 104..



WEB COPY



W.P.No.23465 of 2023

N. ANAND VENKATESH, J.

nsa

W.P.No.23465 of 2023

10.08.2023