



W.P. No.23873 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 14.08.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.No.23873 of 2023**

K.Mani

S/o.Kumaran

.. Petitioner

Vs.

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

2. The Deputy Superintendent of Police,  
Avinashi, Tiruppur - 641 654.

3. The Inspector of Police,  
Cheyur Police Station,  
66WQ + G24, Gobichettipalayam - Avinashi Road,  
Sevur, Tamil Nadu - 641 655.

..Respondents

**PRAYER** : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus, directing the respondents to give adequate police protection to erect, install, and maintain the Mobile phone tower in the property of the petitioner comprised in Plot No.45 in Gouse Nagar in Survey No.116/1, within the Muriyandampalayam Panchayat limit, Avinasi Vattam, Tiruppur District 641 301, of an extent of



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1600 square feet.

For Petitioner : Mr. N. Ganesh  
For Respondents : Mr.A.Damodaran  
Additional Public Prosecutor  
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### **ORDER**

This writ petition has been filed for a direction to the respondents to give adequate police protection to erect, install, and maintain the Mobile phone tower in the property of the petitioner comprised in Plot No.45 in Gouse Nagar in Survey No.116/1, within the Muriyandampalayam Panchayat limit, Avinasi Vattam, Tiruppur District 641 301, of an extent of 1600 square feet.

2. The case of the petitioner is that the petitioner is engaged in the business of providing telecom services viz., broadband Internet services and other allied services. For the said purpose, cell phone towers are going to be erected. The petitioner had also entered into a lease agreement with the owner of the property and had taken steps to install the cell phone tower. Already, the Government of Tamil Nadu has granted exemption to all the



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Telecom companies to install the cell phone 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 representation dated 16.06.2023 to the third respondent police to provide them with protection. However, the third respondent police 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



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Crl.O.P.No.16618 of 2018 and the same is extracted hereunder:-

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*“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.*

*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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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.

7. For the reasons stated above, there shall be a direction to the third respondent police to provide police protection to the petitioner for erection of the cell phone tower. The third 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.

**N.ANAND VENKATESH, J**



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

**14.08.2023**

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

gm

To

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