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W.P.No.25354 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.25354 of 2023

M/s.Ascend Telecom Infrastructure Private Ltd.,
Rep. by its Authorized Signatory,
Tamilselvan .. Petitioner

Versus

1. The District Collector,
Collectorte, Thiruvallur.
2. The Superintendent of Police,
Chinna Ekkadu, Jaya Nagar, Thiruvallur,
Tamil Nadu - 602 001.
3. The Inspector of Police,
Muthapudhupet Police Station,
Main Road, Palavedu Pettai,
Thiruvallur - 600 055. ..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the second and third respondents to provide necessary Police protection within a time frame fixed by this Court to the petitioner for their mobile phone tower erection and operation work for the property being a portion of land of 400 Sq.feet of Roof Top our of 2400 Sq.feet of land along with building property at



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Tiruvallur Registration District, Poonamallee Sub Registration District, in the boundary of Saidapet Taluk, Mutha Pudhu Pattu revenue village, Plot No.65 Ayan Punjay S.F.No.22/01 registered as document No.4455 of 1983 to the light of the order passed by this Court in W.P.(MD).No.12971 of 2020, dated 16.10.2020.

For Petitioner : Mr.M.Karpagam

For Respondents : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

This Writ Petition has been filed for a direction to the respondents 2 and 3 to provide necessary Police protection to the petitioner within a time frame fixed by this Court for their mobile phone tower erection and operation work for the property being a portion of land of 400 Sq.feet of Roof Top out of 2400 Sq.feet of land along with building property at Tiruvallur Registration District, Poonamallee Sub Registration District, in the boundary of Saidapet Taluk, Mutha Pudhu Pattu revenue village, Plot No.65 Ayan Punjay S.F.No.22/01 registered as document No.4455 of 1983 to the light of the order passed by this Court in W.P.(MD).No.12971 of 2020, dated 16.10.2020.



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2. The case of the petitioner is that the petitioner is engaged in the business of providing telecom business including the installation of mobile towers from sourcing of land till commissioning of the tower. 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 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 complaint, dated 11.08.2023 to the respondents 2 and 3 Police to provide them with protection. However, the respondents 2 and 3 Police had not acted upon the said complaint and therefore, the present petition has been filed.



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4. The 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 CrI.O.P.No.16618 of 2018.

5. It will be appropriate to extract the relevant portions of the order in CrI.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 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



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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.

7. For the reasons stated above, there shall be a direction to the second 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 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. If there is any difficulty for the petitioner in getting the Police protection from the respondent Police, it is left open to the petitioner to



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approach the Superintendent of Police and bring to the notice of the Superintendent of Police the order passed in this petition.

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

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

N.ANAND VENKATESH, J.
grs

To

1. The District Collector,
Collectorate, Thiruvallur.
2. The Superintendent of Police,
Chinna Ekkadu, Jaya Nagar, Thiruvallur,
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