



WP(MD) No.3462 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2024

CORAM:

THE HONOURABLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

W.P.(MD) No.3462 of 2024

M/s.Indus Towers Limited,
No.5(NP) ESPEE, IT Park,
Ekkatuthangal, Chennai-600 097,
Rep. by its Asst. Legal Manager,
S.Prasanna

... Petitioner

/vs./

1. The Inspector of Police (Law & Order),
Mattuthavani Police Station,
Mattuthavani, Madurai Town,
Madurai District.

2.M.Sheik Dawood

Proprietor, M/s. Jazz Theatres Ac DTS, ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, seeking direction to the first Respondent to provide necessary police protection to the Petitioner, to remove its mobile phone tower and allied equipments, generator etc., from the second Respondent's building situated at Door No.144, Jazz Tower A/c DTS, Deputy Collector Colony,



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Lake View Road, K.K.Nagar, Madurai, on the basis of the Petitioner's representations dated 26.08.2023 and 14.09.2023, within a period of time as stipulated by this Court.

For Petitioner : Mr.P.Ponniah

For R1 : Mr.M.Veeranthiran

Government Advocate (Criminal Side)

ORDER

The learned Counsel for the Petitioner submits that the Petitioner had filed this Writ Petition to direct the first Respondent to provide necessary police protection to the Petitioner, to remove its mobile phone tower and allied equipments, generator etc., from the second Respondent's building situated at Door No.144, Jazz Tower A/c DTS, Deputy Collector Colony, Lake View Road, K.K.Nagar, Madurai, on the basis of the Petitioner's representations dated 26.08.2023 and 14.09.2023,

2. The learned Counsel for the Petitioner submits that the Petitioner had erected towers on the building belonging to the second Respondent, based on a lease agreement. The lease expired on 04.05.2022. The lease was terminated before two months due to the non-stability of the building, there is a chance of tower falling passing, safety concerned for the general public. Therefore, the



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Petitioner had issued notice on the second Respondent on 08.03.2022.

Subsequently, they had stopped operating the tower. The erection of tower was done, based on the guidelines issued by the Ministry of Telecommunication, Government of India. Now, the equipments which were fixed on the building of the second Respondent are to be removed by the Petitioner, which was objected by the second Respondent. The safety of the public is important, due to the in-stability of the building and the tower has not been removed. Therefore, the Petitioner had given two representations dated 26.08.2023 and 14.09.2023. The Petitioner is scared of the eventuality of the tower falling due to instability of the building which may cause risk to the common public. The first Respondent had not acted on the representation of the Petitioner. Therefore, he was forced to file this Writ Petition against the Respondent, particularly, to remove the tower and the equipments in the custody of the second Respondent. The Petitioner is ready to take civil action.

3. The learned Government Advocate (Criminal Side) appearing for the first Respondent, on instructions, would submit that based on the representation given by the Petitioner, the first Respondent had issued summons



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to the Petitioner as well as the second Respondent. Both the Parties refused to appear before the first Respondent. If both the parties co-operate for enquiry, the First Respondent is ready to act, considering the risk to the general public.

4. By way of rejoinder, the learned Counsel for the Petitioner submits that the Petitioner is operating and having his office at Chennai. He is unable to appear before the first Respondent.

5. Excuse of the Petitioner cannot at all be considered. Such risk of the general public was due to the instability of the building and the tower fixed on the building of the second Respondent. Considering these circumstances, the Petitioner is duty bound to co-operate with the first Respondent for appropriate action from the first Respondent.

6. The learned Counsel for the Petitioner undertakes that he is ready to co-operate fully with the first Respondent. Regarding the dispute between the Petitioner and the second Respondent/landlord, the same can be sorted out under appropriate relief through the civil Court.



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7. This Petition is concerned only for removal of tower which may fall due to in-stability of the building, for which, the help of the first Respondent is required. This order is specifically for that. It is made clear that for the removal of structures which affects the safety of the general public, the first Respondent has to act. For the necessary cost for removal of structure, the Petitioner has to bear the cost. Regarding the dispute between the Petitioner and the second Respondent the same has to be sorted out through the Civil Court only and not in this Writ Petition.

8. With the above directions, this Writ Petition is disposed of. No costs.

16.02.2024

Index : Yes / No

Internet : Yes / No

LS

TO:

1. The Deputy Superintendent of Police,
Thiruverumbur Taluk, Trichy.
2. The Inspector of Police
Thiruvakudi Police Station,
Trichy District.



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SATHI KUMAR SUKUMARA KURUP, J.

LS

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
W.P.(MD)No.3462 of 2024

Dated:
16.02.2024