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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01-04-2025**

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THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

W.P. NO. 11446 of 2025

and WMP.No.12925 of 2025

M/S.Ascend Telecom Infrastructure Private Limited
Rep By Its Authorized Signatory,
Tamilselvan

.. Petitioner

Vs

1.The Commissioner of Police,
Avadi.

2. The Inspector of Police,
Sevvapet Police Station,
Avadi

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondents to provide adequate police protection to the petitioner company and its staff and subordinates to erect, commissioning of equipments and to radiate the transmission tower at the lease site admeasuring an extent of about 1200 sq.ft. out of 2830 sq.ft., comprised in Grama Natham Survey 435/12A, situated at Aranvoyal Village, Tiruvallur Taluk, Tiruvallur District, situated within Sub Registration District of Manavala Nagar and the registration District of Kancheepuram (presently Tiruvallur) the same is acquired by virtue of sale deed dated 12.07.2018, bearing Document No.2340 of 2018.



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For Petitioner : Mr.A.M.Venkata Krishnan
For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Writ Petition has been filed for direction directing the respondents to provide adequate police protection to the petitioner company and its staff and subordinates to erect, commissioning of equipment and to radiate the transmission tower at the lease site admeasuring an extent of about 1200 sq.ft. out of 2830 sq.ft., in Grama Natham Survey 435/12A, at Aranvoyal Village, Tiruvallur Taluk, Tiruvallur District, Registered in Kancheepuram SRO, Kancheepuram District, by virtue of sale deed dated 12.07.2018, bearing Document No.2340 of 2018.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The case of the petitioner is that the petitioner is a licensed telecom service incorporated under the Companies Act, 1956 providing telecom services. For the said purpose, mobile phone towers are going to be erected.



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The petitioner had also entered into a lease agreement with the individual owners for the purpose of erecting mobile phone towers for effective communication. Already, the Government of Tamil Nadu has granted exemption to all the Telecom companies to install and erect the cell phone towers by virtue of Government Order passed in G.O.Ms.No.302, dated 12.12.2002 Housing and Urban Department and G.O.Ms.No.177 dated 17.12.2002 Municipal Administration and Water Supply Department and Circular Letter No.5742/C3/2008 dated 26.03.2009 issued by the Secretary to the Government of Tamil Nadu, Engineering Department.

4. When the petitioner attempted to erect the mobile 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 to the respondent Police to provide them with protection. However, the respondent Police had not acted upon the said complaint and therefore, the present Writ Petition has been filed.

5. The learned counsel appearing for the petitioner would submit that the issue involved in this Writ 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, wherein the very same petitioner

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6. 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.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



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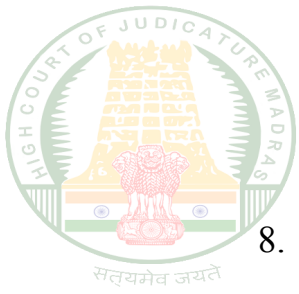
which C.S.R.No.42 of 2016 and since the same has not been considered so far, he has come up with the present petition for the relief stated supra.

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.”

7. 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.



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8. For the reasons stated above, there shall be a direction to the respondent police to provide police protection to the petitioner for erection of the cell phone tower. The respondent police shall ensure that the entire process goes on in a smooth manner, without giving rise to any law and order problem.

9. In view of the above, this Writ Petition petition is disposed of. Consequently, connected Miscellaneous petition is closed. No costs.

01.04.2025

(1/3)

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

drl

To

1. The Commissioner of Police,
Avadi.

2. The Inspector of Police,
Sevvapet Police Station,
Avadi

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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