THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.34497 OF 2015

O R D E R

The issue in this case is whether the A-4 shop established by M/s. Sri Sai Wines, Khammam, the sixth respondent, is situated in the 34th or the 33rd Division of Khammam Municipal Corporation.

M/s. Liquids Restaurant and Bar, By-pass Road, Khammam, the petitioner herein, is located in the 34th Division of Khammam Municipal Corporation. While so, the sixth respondent was allotted
an A-4 shop for the purpose of selling Indian Made Foreign Liquor, viz., Shop No.3 in New Division No.33 of Khammam Municipal Corporation, notified under the Gazette Notification dated 14.09.2015. The petitioner's complaint, however, is that the sixth respondent established the A-4 shop at the By-pass road in the 34th Division instead of the 33rd Division of the Corporation.

Owing to the dispute as to the location of the subject shop, this Court *suo motu* impleaded the Khammam Municipal Corporation, represented by its Commissioner, as the seventh respondent. Thereupon, the Commissioner, Khammam Municipal Corporation, filed a counter affirming that the shop established by the sixth respondent is situated in the 34th Division of the Corporation and not the 33rd Division.

The learned counsel appearing for the sixth respondent and the learned Assistant Government Pleader for Excise however contended that the seventh respondent Corporation had earlier stated that the location of the subject shop falls in the 33rd Division of the Corporation and no credibility could therefore be attached to its changing stands.

Responding to this, Smt. M.Bhagyasri, learned counsel for the seventh respondent Corporation, pointed out that the earlier information furnished to the excise authorities by the Commissioner, Khammam Municipal Corporation, under letter dated 05.06.2015, as to the location of the subject premises was no longer correct as delimitation of the Corporation into 50 Wards was notified thereafter by the

Government of Telangana under G.O.Ms.No.78, Municipal Administration & Urban Development (CI), dated 16.06.2015. As per this new delimitation, the subject premises at H.No.11-10-734/9/1 fall in Division No.34 of the Corporation. She further stated that when the excise authorities addressed letter dated 01.10.2015 seeking a clarification as to the location of these premises, letter dated 15.10.2015 was addressed by the Commissioner of the Corporation informing them that H.No.11-10-734/9/1 falls within the 34th Division of the Corporation according to G.O.Ms.No.78 dated 16.06.2015, notified under Gazette No.192 dated 02.07.2015.

The learned counsel for the sixth respondent would however contend that even as per the delimitation of divisions under G.O.Ms.No.78 dated 16.06.2015, H.No.11-10-734/9/1 could possibly fall within Division No.33. He pointed out that the table relating to Division No.33 (West) indicates that it starts from H.No.11-10-644 on the bus depot road via 11-10-739 up to 11-10-748/4. Smt. M.Bhagyasri, learned counsel, however pointed out that Division No.34 (East) indicates that it starts from the new water tank via H.No. 11-10-825/11 and turns left via Bathula Anjaiah H.No.11-10-229/E up to 11-10-825/K on the By-pass road. She would assert that H.No.11-10-734/9/1 on the By-pass road, where the sixth respondent established the A-4 shop, falls within Division No.34.

It may be noticed that Division No.34 (East) specifically speaks of the By-pass road, while Division No.33 (West) speaks of the Bus Depot road and not the By-pass road. Further, the sixth respondent does not impute any *malafides* or improper motives to the seventh respondent Corporation in claiming that the location of the shop falls within Division No.34. That being so, this Court finds no reason to doubt the assertion of the Corporation that the subject location falls within Division No.34 and not Division No.33, the new division as per G.O.Ms.No.78 dated 16.06.2015, which was in force by the time of issuance of the Notification dated 14.09.2015.

In the light of the clear and unequivocal assertion of the Corporation that the location selected by the sixth respondent for establishment of the A-4 shop falls in Division No.34 and given the indisputable fact that it was allotted a shop in Division No.33, the inaction of the excise authorities in taking steps to ensure shifting of the shop by the sixth respondent to Division No.33 of the Corporation, despite the representations made by the petitioner in this regard, cannot be countenanced.

The Writ Petition is accordingly allowed. The excise authorities shall ensure that the sixth respondent shifts the location of the shop to any premises falling within the division in which it was allotted a shop under the Notification dated 14.09.2015. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

29th DECEMBER, 2015

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