

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:04.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26049/2014 & MP.No.1/2014

1.K.Ramachandran
2.V.Krishnan
3.S.Vijayaraghavan

.. Petitioners

Vs.

1.The Manging Director
Tamil Nadu State Marketing Corporation
Ltd., CMDA Tower-II, IV Floor
Gandhi Irwin Bridge Road
Egmore, Chennai 600 008.

2.The District Manager
Chennai [South], IMFS Depot
TASMAC Ltd., TASCOT Unit, B4
Flats, Industrial Estate,
Ambattur, Chennai.

3.The Principal Secretary to Government
Home, Prohibition and Excise Dept.,
Secretariat, Fort St George,
Chennai 600 009.

4.The Commissioner of Prohibition and Excise
Chepauk, Chennai 600005.

5.The District Collector,
Chennai Collectorate Building
Rajaji Salai, Chennai 600 001.

6.Mrs.Tamizharasi

.. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the respondents 1 to 5 to shift to an appropriate place or close down the TASMAC retail vending outlet., i.e., TASMAC shop No.914 and attached bar situated at Narmada apartments, No.21, III Cross Street, Raja Annamalai Puram, Chennai 600 028.

For Petitioner : Mr.Niranjan Rajagopalan

For RR 3 to 5 : Mr.A.Mohammed Mustak, GA

For RR 1 and 2 : Mr.B.Nedunchezhiyan

ORDER

Heard Mr.Niranjan Rajagopalan, learned counsel for the petitioner and Mr.B.Nedunchezhiyan, learned counsel appearing for the respondents 1 and 2 and Mr.Mohammed Mustak, learned Government Advocate appearing for the respondents 3 to 5 and with their consent, the Writ Petition itself is taken up for final disposal.

2.The petitioners are the owners of flats in an Apartment complex called Narmadha Apartments at door No.21, III Cross Street, Raja Annamalai Puram, Chennai 600 028. One of the co-owners who owns Apartment No.1 and 2 in the same complex, had rented out the premises to the TASMAL for Retail Vending Outlet. The petitioners have been repeatedly sending representations to the authorities from the year 2007 which has not yielded any results and the petitioners have sent a legal notice which has also not produced any results. From the photographs filed in the typed set of papers, it is clear that the TASMAL Retail Vending Shop is situated in the Ground Floor of the big Apartment Complex and further the entire area is in a most unhygienic condition and the empty bottles are collected in gunny bags and in the common area, a temporary shed has been put up and surprisingly, one coconut tree is projecting through the roof of the said temporary structure. People are chatting in front of the shop and motorcycles have been parked in an hapazard manner and undoubtedly, this is a nuisance. Though the representations have been given to all the authorities, the 2nd respondent is said to have conducted an inspection and he has passed an order on 28.03.2009 stating that there is nothing objectionable in the shop being run in that premises. It is rather unfortunate that the 2nd respondent being a Government official, did not take a pragmatic view in the matter and any reasonable person who visit the premises will undoubtedly not pass an order as passed by the 2nd respondent dated 28.03.2009. Therefore, I propose to reject the same as an illegal order.

3.Considering the fact that the residents in the locality are put to great hardship on account of the shop and also taking into consideration the new policy decision of the Government to bring down the number of shops and also to reduce the timings during which the shop will be open, there will be a direction to the 5th respondent to depute a Senior Officer to conduct a

surprise inspection, take photographs of the area, examine as to whether where any unauthorised constructions have been put up, and he shall ascertain the views of the residents in the apartment complex and the 6th respondent and based on such inspection, the Senior Officer is directed to file a report before the 5th respondent and if the 5th respondent is satisfied with the report to be submitted by the Senior officer concerned, then the 5th respondent shall direct the respondents 1 and 2 to shift the shop to some other unobjectionable location. The above exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

4.The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.The Manging Director
Tamil Nadu State Marketing Corporation
Ltd., CMDA Tower-II, IV Floor
Gandhi Irwin Bridge Road
Egmore, Chennai 600 008.
- 2.The District Manager
Chennai [South], IMFS Depot
TASMAC Ltd., TASCOT Unit, B4
Flats, Industrial Estate,
Ambattur, Chennai.
- 3.The Principal Secretary to Government
Home, Prohibition and Excise Dept.,
Secretariat, Fort St George,
Chennai 600 009.
- 4.The Commissioner of Prohibition and Excise
Chepauk, Chennai 600005.

5.The District Collector,
Chennai Collectorate Building
Rajaji Salai, Chennai 600 001.

+1cc to the Government Pleader Sr.37807
+1cc to Mr.B.Nedunchezhiyan, Advocate Sr.37725
+1cc to M/S.G.R.Associates, Advocate Sr.37797

W.P.No.26049 of 2014

pur[col]
srg 18/07/2016



WEB COPY