

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.33642 of 2013

and

M.P.No.2 of 2013

R.Inbaveni ... Petitioner

-vs-

1.The Excise Commissioner,
Government of Puducherry,
Puducherry.

2.The Deputy Commissioner (Excise),
Government of Puducherry,
Puducherry.

3.M/s.Sun Wines,
rep. by Managing Partner,
254, Pondy Cuddalore Main Road,
Thavalakuppam,
Puducherry. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records pertaining to order passed in Proceedings No.3761/DCE/S2/FL.2/2003-04 dated 19.9.2013 on the file of the second respondent and quash the same.

For Petitioner : Mr.R.Natarajan

For Respondents : Mr.M.Govindarajan
Govt. Pleader (Pondy) for R1 & R2
Mr.T.P.Manoharan
Senior Counsel for
Mr.T.M.Naveen for R3

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O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner is aggrieved by the re-location of the liquor shop at No.254, Pondy-Cuddalore Main Road, Thavalakuppam, Puducherry. It is the case of the petitioner that there is violation of the norms, as it is situated within the prohibited distance from the schools/educational institutions. The petitioner states that while the local MLA was assured by the Deputy Commissioner (Excise) that there was no proposal to open the wine shop at the site vide letter dated 30.05.2003, subsequently, the wine shop was opened. The order sought to be assailed is one dated 19.09.2013, whereby sanction has been so granted.

2. The third respondent, owner of the wine shop, has pointed out that even earlier, an endeavour was made to stop shifting of the shop by filing W.P.No.27876 of 2013 by one Mr.M.Krishnamoorthy and that endeavour failed before the Court. It is thus pleaded that the present petition is only a set up to file another petition, having failed in the earlier endeavour. Incidentally, the petitioner has filed as supporting document, the representation made by one People Security Welfare Association, of which Mr.M.Krishnamoorthy is stated to be the President. The case of respondent No.3 is that it is running the shop under a license, which was earlier located at another premises. On account of that premises becoming old, the shop has been situated now in a secluded place on the Pondy-Cuddalore Main Road and no buildings, including schools, hospitals, temples, houses etc. are situated within 200 metres radius. The depth of the land is stated to be more than 500 metres away from the Main Road and while that shop exists on the Main Road, no grievance has been made in that behalf.

3. Respondent No.3 has also averred that the petitioner herself resided 4 Kms away from the liquor shop in another village and not being an aggrieved party, she cannot hold the flag for all villagers and residential areas.

4. On our query, the learned Government Pleader (Pondy) states that license has been issued after verification that it meets all parameters.

5. We may also note that in so far as the location of the liquor shops on all the State Highways is concerned, the Hon'ble Supreme Court is already in seizin of the issue emanating from different High Courts, though there can be no difference of opinion that on National Highways, no liquor shop can be located.

6. In view of the aforesaid position and the facts set out by both the respondent authorities and respondent No.3, no intervention in this matter is possible.

7. The writ petition accordingly stands closed. No costs.
Consequently, M.P.No.2 of 2013 is also closed.

Sd/-
Asst.Registrar (CS IV)

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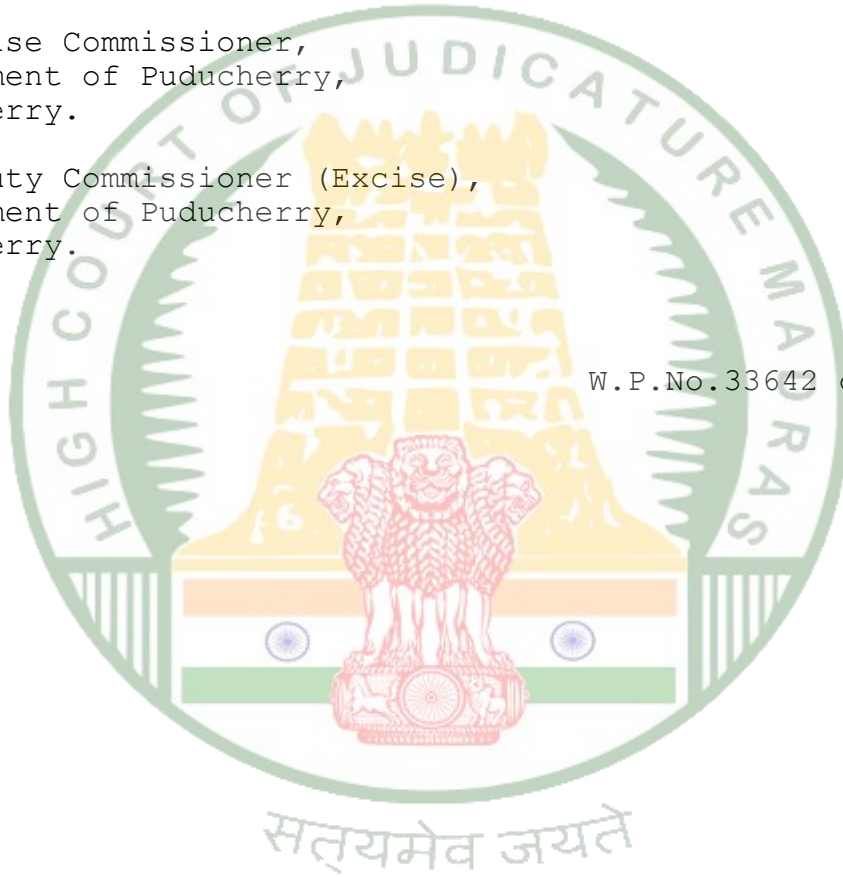
Sub Asst. Registrar

To

- 1.The Excise Commissioner,
Government of Puducherry,
Puducherry.
- 2.The Deputy Commissioner (Excise),
Government of Puducherry,
Puducherry.

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W.P.No.33642 of 2013



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