



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE S. NAGAMUTHU

AND

THE HONOURABLE MR. JUSTICE M. V. MURALIDARAN

W.P. [MD]. No. 6192 of 2015

K. Annadurai

.. Petitioner.

Vs.

1. The District Collector,
Tiruchirapalli.

2. The District Manager,
TASMAC, Trichy District.

3. The Tahsildar,
Trichy West Taluk, Trichy City.

4. The Inspector of Police,
Woraiyur Police Station,
Trichy.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the respondents to shift the above said TASMAC Shop situated at Ward Nos. 54 and 55, Woraiyur - Kura Theru, Trichy on the basis of the Peace Committee Resolution dated 13.10.2014.

For Petitioner : Mr. B. Jameel Arasu

For Respondents : Mr. M. Govindan

Special Government Pleader
for RR-1, 3 and 4

Mr. M. Muniyasamy for R-2

ORDER

(Order of the Court was made by S. NAGAMUTHU. J)

The petitioner has come up with this Public Interest Litigation, seeking a direction to the respondents to shift the TASMAC retail Shop situated at Ward Nos. 54 and 55, Woraiyur - Kura Theru, Trichy, on the basis of the Peace Committee Resolution dated 13.10.2014.

2. Though this Writ Petition has been pending from April 2015, the respondents have not chosen to file any counter.

3. We have heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents 1, 3 and 4 and the learned Standing Counsel appearing for the second respondent.



4. The learned counsel for the petitioner would submit that there are lot of schools, shops, other Educational Institutions and also residential houses near the TASMAC shop in question. He would further submit that on considering the objections raised by the people living in the area, a Peace Committee Meeting was held by the third respondent/Tahsildar on 13.10.2014, which was attended to by the representatives of the people from the said area and in the said meeting, it was decided by means of compromise to shift the TASMAC shop in question to some other place, within three months. A copy of the Peace Committee Resolution, dated 13.10.2014, has been filed by way of typed set of papers.

5. Referring to the same, the learned counsel for the petitioner would submit that though it was decided in the year 2014 and though it was agreed by the respondents that the shop would be shifted within a period of three months, the same has not been shifted, it is the grievance of the petitioner.

6. The learned Special Government Pleader appearing for the respondents 1, 3 and 4 would submit that though he wrote to the Assistant Commissioner, Excise, there are no instructions to him in this regard. He would also submit that he complained to the District Collector, Trichy in this regard.

7. The learned counsel appearing for the second respondent would submit that the shop has been located strictly by following the rules relating to the same. He would further submit that due to political motive, this Writ Petition has been filed.

8. We have considered the above submissions and we have also perused the records carefully.

9. At Page No.1 of the typed set of papers, the petitioner produced a copy of the representation made by the villagers to the District Collector, opposing the establishment of the TASMAC Shop No.10229, at the place in question, on the ground that there are schools, other educational institutions, temples and the residential houses. Similarly, he has produced the copies of a number of representations made by the general public to the District Collector and the other authorities. Based on these representations, on the instructions of the District Collector, the Tahsildar convened a Peace Committee Meeting, at 05.30 PM, on 13.10.2014. In the said meeting, even the officials of the TASMAC Shop, the District Elementary Educational Officer and the representatives of the general public participated. In the said meeting, the Tahsildar recorded that the TASMAC Shop No.10229 is located near the schools, hospitals and a market. He has further recorded that through the said area, the children and women often frequent to go to the above institutions. When this was pointed out by the Tahsildar, all the participants in the said Peace Committee Meeting agreed that the shop will be shifted to some other suitable place.



10. The Tahsildar, being the Executive Magistrate, is concerned with the law and order problem. It is the duty of the Tahsildar to ensure the safety, security and peaceful living of the people in the said locality. Having noted all these responsibilities, the Tahsildar decided to recommend to the District Collector and the other authorities to shift the TASMACH Shop No.10229 to some other place.

11. When that be so, it is too late on the part of the second respondent to contend that the TASMACH Shop has been located by strictly following the distance rules. If really the TASMACH Shop has been located by following the distance rules and the other procedures, the Tahsildar, a responsible Executive Magistrate, would not have recommended for the shifting of the TASMACH Shop to some other place. In our considered view, the observations of the Tahsildar should be given weightage of. Thus, it is crystal clear that if the TASMACH Shop is allowed to function at the place in question, it would cause lot of nuisance to the people, more particularly, the children and women. The right to have a peaceful life cannot be allowed to be infringed upon by allowing the TASMACH Shop in question to function at its present place. Therefore, we are inclined to allow the present Writ Petition.

12. In the result, the Writ Petition is allowed with a direction to the respondents either to close the TASMACH Shop No.10229 or to shift the same to a suitable place. The said direction shall be complied with by the respondents within a period of fifteen days from the date of receipt of a copy of this order. No costs.

Sd/
Assistant Registrar(C.S-I)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The District Collector, Tiruchirapalli.
 - 2.The District Manager, TASMACH, Trichy District.
 - 3.The Tahsildar, Trichy West Taluk, Trichy City.
 - 4.The Inspector of Police, Woraiyur Police Station, Trichy.
- +1cc to M/S.A.Joel Paul Antony, Advocate in SR.No.54113.
+1cc to Special Government Pleader in SR No.54462.

ORDER MADE IN
W.P. [MD].No.6192 of 2015
20.09.2016

NB

msm/ck/sar-3/19.10.16/p3/7c