

In the High Court of Judicature at Madras

Dated : 14.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.24624 of 2017 & WMP.No.25982 of 2017

V.Uma

...Petitioner

Vs

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The District Manager, TASMAC,
Kancheepuram (South),
Kancheepuram District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to either open any TASMAC shop in door No.2, Sriperumbudur Road, Walajahbad.

For Petitioner : Mr.K.Balaji
For Respondent-1: Mrs.A.Srijayanthi, SGP
For Respondent-2: Mr.Arumugha Rajan

ORDER

Mrs.A.Srijayanthi, learned Special Government Pleader accepts notice for the first respondent. Mr.Arumugha Rajan, learned Standing Counsel accepts notice for the second respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition seeking a direction upon the respondents not to permit opening of a TASMAC retail vending liquor shop at door No.2, Sriperumbudur Road, Walajahbad.

3. The petitioner was married to one Muniyandi and it appears that due to difference of opinion between themselves, they have been separated. The petitioner is stated to be living with her two children. Though the petitioner's former husband has a leasehold right in the property in question, he is stated to have transferred his rights in the name of the petitioner. The property in question namely door No.2, Sriperumbudur Road, Walajahbad is stated to be assessed to property tax in the name

of the petitioner and she has been remitting other statutory levies.

4. While so, it appears that the petitioner's former husband claimed a right over the property, in which, there is a shop and filed a suit in O.S.No.10 of 2012 on the file of the Additional District Munsif Court, Kancheepuram for a decree of permanent injunction. The Civil Court, by judgement and decree dated 05.4.2017, dismissed the suit.

5. According to the petitioner, the fact that the suit filed by the petitioner's former husband for permanent injunction was dismissed, goes to prove that the petitioner is in actual physical possession of the property. The reason for approaching this Court is with an allegation that the petitioner's former husband approached the second respondent agreeing to lease the property in question to the second respondent for locating a TASMAL retail liquor vending shop.

6. On coming to know of the same, the petitioner had given objections on 04.9.2017, which has been duly acknowledged by the second respondent. This was followed by a legal notice dated 07.9.2017. In her objections and the legal notice, the petitioner specifically stated that the suit filed by her former husband came to be dismissed and that he had filed an appeal before the Lower Appellate Court and the appeal is to be listed on 10.10.2017. In such circumstances, the petitioner would state that the second respondent should not enter into any lease agreement with the petitioner's former husband.

7. Though several allegations have been made against the petitioner's former husband, the petitioner has not impleaded him as a party respondent in this writ petition. In any event, there appears to be a civil dispute between the petitioner and her former husband and the second respondent, before entering into a lease, should conduct due diligence and ensure that the lease is entered into with the owner of the property and if there had already been a civil suit, in the fitness of things, it would be better for the second respondent, which is a Government Corporation, to desist from entering into any further controversy, which is not called for.

8. In the light of the above directions, the writ petition is disposed of with a direction to the second respondent to consider the petitioner's objections dated 04.9.2017, give hearing to her former husband Muniyandi also and then take a pragmatic decision in this matter, within a period of two weeks from the date of receipt of a copy of this order. Till then, the

TASMAC shop shall not be located in the property in question. No costs. Consequently, the above WMP is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The District Collector, Kancheepuram District, Kancheepuram.
2.The District Manager, TASMAC, Kancheepuram (South),
Kancheepuram District.

+ 1 cc to Mr.Arumugha Rajan, Advocate,SR.66959

+ 1 cc to M/s.K.Balaji, Advocate,SR.66758

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SCD(CO)
NR 15/09/2017



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