

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2017

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.18285 of 2017

Masjid Fathima,
No.85, Nelson Manickam Road,
Metha Nagar, Chennai 600 029.
rep by its Secretary,
k.Abdul Rahim
S/o V.C.Khader Mohideen Rowther. Petitioner

Vs.

- 1.Tamil Nadu State Marketing Corporation (TASMAC),
Rep by its District Manager,
Chennai.
 - 2.The Supervisor,
Shop No.449, TASMAC,
Nelson Manickam Road, Chennai-29.
 - 3.The District Collector,
O/o The District Collector,
Chennai. Respondents
- R-3 impleaded as per order dated 21.07.2017
in WMP.No.20230/2017 in W.P.No.18285/2017.

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from functioning/selling or vending liquor from Shop No.449, Nelson Manickam Road, Metha Nagar, Chennai 600 029.

For Petitioner : Mr.I.Abrar Md Abdullah
For Respondents: Mr.B.Nedunchezhiyan for RR1-2
: Mrs.M.Lalitha
Government Advocate, for R3

O R D E R

Heard Mr.I.Abrar Md Abdullah, learned counsel for the petitioner and Mr.B.Nedunchezhiyan, learned counsel appearing for the first and second respondents and Mrs.M.Lalitha, learned Government Advocate, appearing for the third respondent. With the consent on either side, Writ Petition itself is taken up for disposal.

2. The petitioner is a Secretary of Masjid Fathima, which is situated in No.85, Nelson Manickam Road, Metha Nagar, Chennai-29. The petitioner has filed this Writ Petition objecting to the location of a TASMAC liquor shop, bearing No.449 in Nelson Manickam Road, which is less than 10 feet from the Masjid, within the distance of 500 metres from the National Highways, and in the midst of Educational institutions and in a very busy residential locality.

3. The petitioner has submitted representations to the authorities including to the Chief Minister's Special Cell for closure of the shop, as it infringes the Distance Rules and causes great nuisance to the public in the locality.

4. Mr.B.Nedunchezhiyan, learned counsel appearing for the first and second respondents submits that the shop in question does not infringe any of the Rules pertaining to the distance and has been located in a proper place. In any event, if the shop is located near a place of worship or a school and within 500 metres from the National Highway, the respondent TASMAC have to definitely shift the shop to a different location.

5. In my view, while computing the distance between the shop and a place of worship or an education institution, mathematical precision cannot be applied and the Distance Rule has to be given a purposive interpretation and object behind enacting such a rule. This has to be borne in mind by the authority who grants approval for locating a TASMAC shop, which is the District Collector of the concerned District.

6. Considering the fact that Nelson Manickam Road is a very busy thoroughfare and the area is a densely populated area and predominantly residential, this is a fit case, where a direction should be issued to the third respondent to take note of the objections of the residents and take a decision in the matter. Considering the above, there will be a direction to the petitioner to submit a fresh representation along with the copy of this order to the third respondent and on receipt of the representation, the third respondent shall depute one of his officers to conduct a surprise inspection of the shop and the locality, and after receiving the inspection report, the third respondent shall take a decision pragmatic decision in the matter bearing in mind that public opinion is also a very important aspect that has to be taken into consideration before approving a location for establishment of liquor retail vending shop, within a period of three weeks from the date of receipt of copy of this order.

7. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsk/pbn

To

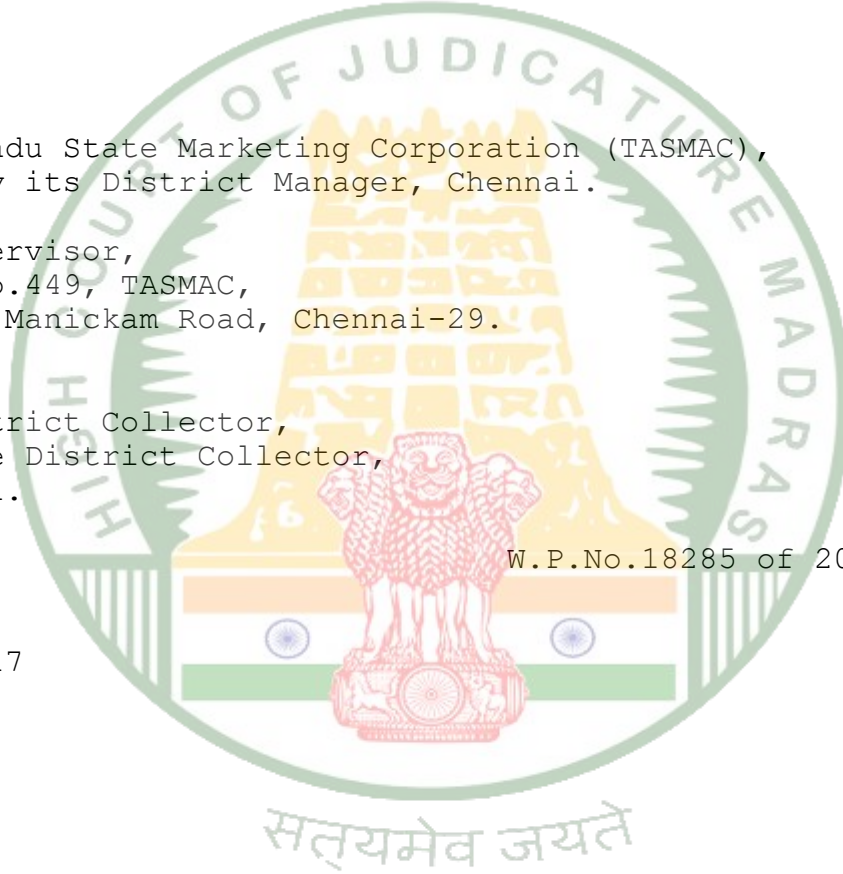
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RR(CO)
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