



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.07.2017**

CORAM:

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P. (MD)No.10652 of 2017

and

W.M.P. (MD)No.8134 of 2017

K.Ramalingam,

...Petitioner

Vs.

1. The Senior Regional Manager,
The Tamil Nadu State Marketing
Corporation Ltd (TASMAC), Trichy Region,
No.19,Gandhi Nagar,
Pon Nagar, Trichy.

2. The District Collector,
Collectorate, Trichy.

3. The District Manager,
Tamil Nadu State Marketing
Corporation Ltd (TASMAC),
Trichy.

...Respondents

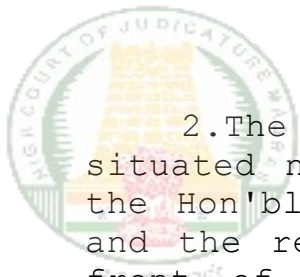
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents from the opening of TASMAC Shop No.10380 in front of Arulmigu Sri Soleeshwarar Temple, Thuvakudi, Trichy District in the land belongs to the Thirugnanmoorthi, son of the Ondimuthukadarar, Thuvakudi. Trichy District based on the petitioner's representations dated 24.04.2017 and 03.06.2017.

For Petitioner : Mr.S.Karthick Subramanian
For Respondents 1&3 : Mr.M.Muniyasamy
For Respondent No.2 : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

O R D E R

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

This Writ Petition has been filed in Public Interest by the Office Bearer of "Arulmigu Soleeshwarar Vazhipattu Mandram". He is aggrieved by the proposal of the respondents herein, to open the TASMAC Shop No.10380, in front of Arulmigu Sri Soleeshwarar Temple, Thuvakudi, Trichy District.



2.The Writ petitioner has stated that the said shop was situated near Thuvakudi. On account of the direction issued by the Hon'ble Supreme Court for shifting, the said shop was closed and the respondents are endeavouring to locate the said shop in front of Arulmigu Sri Soleeswarar Temple, Thuvakudi. It is alleged that the distance between the temple and the said proposed location is within 100 meters. Since there are three temples located very near to the said shop, the villagers raised strong objections. Apart from Arulmigu Sri Soleeshwarar Temple, there are two other temples, namely, Arulmigu Ayyappan Temple and Arulmigu Chellandi Amman Temple.

3.The respondents have filed their counter affidavit. According to the respondents, the proposed location is at a distance of 195 meters from Arulmigu Sri Soleeshwarar Temple and 180 meters from Arulmigu Chellandi Amman Temple. There is no reference to the Ayyappan Temple in the counter affidavit.

4.The Writ petitioner has specifically averred that these three temples are situated very near to the proposed shop. Since there are as many as three temples in close proximity, the authorities ought not to have located the site impugned in the Writ Petition. The Arulmigu Sri Soleeshwarar Temple is an ancient Temple.

5.We take note of the fact that the respondents have not traversed the claim of the Writ petitioner, with regard to the location of Ayyappan Temple from the proposed site. The respondents can certainly not guarantee that the person who consumes liquor at the TASMAC shop site would restrict his activities beyond the prohibited distance. Taking note of the totality of facts and circumstances obtaining in this case, we are inclined to allow the Writ Petition. Accordingly, there shall be an order, forbearing the respondents from opening the TASMAC shop No.10380, at the site mentioned in the counter affidavit filed by the third respondent herein.

6.This Writ Petition is allowed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To

1. The Senior Regional Manager,
The Tamil Nadu State Marketing
Corporation Ltd (TASMAC), Trichy Region,
No.19, Gandhi Nagar,
Pon Nagar, Trichy.



2. The District Collector,
Collectorate, Trichy.

3. The District Manager,
Tamil Nadu State Marketing
Corporation Ltd (TASMAC),
Trichy.

+1cc to Spl.Government Pleader Sr.No.66954

+1cc to Mr.S.Karthick Subramanian, Advocate Sr.No.67014

MR/SMI/GSP

VB/SV/SAR3/28.07.2017/3P/6C

ORDER MADE IN
W.P. (MD) No.10652 of 2017
19.07.2017