

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED 27.07.2017
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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) No.11039 of 2017
and
W.M.P. (MD) .No.8461 of 2017

M.Kumar

...Petitioner

Vs

1. The District Collector,
Office of the District Collector,
Madurai District, Madurai.
2. The Senior Regional Manager (TASMAC)/District Revenue Officer,
Office of the Senior Regional Manager,
Annanagar,
Madurai.
3. The District Manager,
TASMAC, Madurai (North)
Madurai.
4. The Divisional Officer (Excise)
Madurai North,
Madurai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to reopen the TASMAC retail shop no.5439 at Door No. 1 (re-survey no.258/2) Narasingam Village, Arumpanoor Panchayat in Madurai District within the time stipulated by this Honorable Court.

For Petitioner :Mr.S.Malaikani

For Respondents :Mr.B.Pugalendhi,

Additional Advocate General, assisted by
Mr.M.Muniyasamy for RR-1 to 4.

ORDER

The writ petition has been filed for issuance of Writ of Mandamus, directing the respondents to reopen the TASMAC retail shop no.5439 at Door No. 1 (re-survey no.258/2) Narasingam Village, Arumpanoor Panchayat in Madurai District within the time stipulated by this Honorable Court.



2.The petitioner is running a TASMAC Shop No.5439, situated at Door No.1 (re-survey no.258/2) Narasingam Village, Arumpanoor Panchayat in Madurai District. The said TASMAC shop is now closed on the ground that the functioning of the said TASMAC shop was opposed not only by the general public, but also by one rival claimant with political assistance. The said opposition was on the allegation that the shop is situated within 500 metres from the residential area and town.

3.In order to know the location of the shop in question, this Court appointed two Advocate Commissioners by an order dated 14.06.2017 to inspect the shop in question and file a report along with sketch before this Court on 19.07.2017. Today, the learned Advocate Commissioners filed their reports, after thorough inspection in the presence of the Taluk Surveyors as well as other officials on 15.07.2017, which reads as follows:

"It is humbly submit that we measured from the starting point of National Highway (NHA7) from Othakadai by reading the meter in two wheeler towards the shop through the panchayat road and while reaching the TASMAC shop No.5439, it shows 1924 mt from National Highway, similarly from the State Highway (toward Alagarkovil) to reach the TASMAC shop, it shows 2300 meters, we measured from the starting point of panchayat road to the TASMAC shop, it was 700 mts, the shop is located facing North direction and adjacent to the PWD channel with a width of 30 mts running in north south direction having mud road on either side of the channel, No educational institution are available within 500 mt radius and a small Murugan Temple is situated on the southern side of the TASMAC shop located at 260 mts, which has different pathway, on the western side of the shop, the yanaimai hills is located at 280 mts, on the eastern side the PWD channel is at about 50 mts, only one residential house is located at 150 mts on the southeast direction of the TASMAC shop. The shop is about 242 sq.ft a single room and a temporary roof in front facing towards North.

From our observation, the TASMAC shop No.5439 is located in an agricultural area and the petitioner's shop is a retail shop running without Bar.

Therefore, we conclude that TASMAC shop No.5439 located at Door No.1 (resurvey No.258/2), Narasingam village, Arumpanoor Panchayat, Madurai District, is 1924 mts away from National Highway and 2300 mts away from the State Highways."



4. In the above circumstances, I am of the view that there may not be any impediment for the authorities to consider the claim of the petitioner, as made in the representation dated 10.06.2017.

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5. Hence, the respondents 1 to 3 are directed to consider the representation of the petitioner, dated 10.06.2017 and pass necessary orders, within a period of six weeks from the date of receipt of a copy of this order, after hearing the petitioner as well the rival claimants, if any.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Office of the District Collector,
Madurai District, Madurai.
2. The Senior Regional Manager (TASMAC)/District Revenue Officer,
Office of the Senior Regional Manager,
Annanagar,
Madurai.
3. The District Manager,
TASMAC, Madurai (North)
Madurai.
4. The Divisional Officer (Excise)
Madurai North,
Madurai.

+1cc to M/S. S.MALAIKANI, Advocate, SR.No.68185.

W.P (MD) No.11039 of 2017
27.07.2017

vs

SDS/SKN:RSK/SAR 2/31.07.2017/3P/6C