



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P. (MD) No.12811 of 2017

T.Yabesh

...Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary,
Home, Prohibition and Excise Department,
St.George Fort,
Chennai.

2.The District Collector,
Kanyakumari District.

3.The Managing Director,
Tamil Nadu State Marketing Corporation (TASMAC),
Gandhi Irwin Bridge Road,
Egmore, Chennai.

4.The Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Nagercoil,
Kanyakumari District.

...Respondents

PRAYER:Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to close or shift the TASMAC Shop No.4819 running in the petitioner building at Door No.23/320 of Ezhudhesam Town Panchayat within a stipulated time period in accordance with law on the basis of the representation dated 01.06.2017.

For Petitioner
For Respondents

: Mr.B.Thanga Aravindh
: Mr.G.Muthukannan
Government Advocate
(for R1 and R2)

Mr.B.Pugalendhi, AAG assisted by
: Mr.Muniasamy (for R3 & R4)

O R D E R

The writ petition is filed seeking for the issuance of a Writ of Mandamus directing the respondents to close or shift the TASMAC Shop No.4819 running in the petitioner's building at Door No.23/320 of Ezhudhesam Town Panchayat, within a stipulated time in accordance with law, on the basis of the representation dated 01.06.2017.

2.Mr.G.Muthukannan, learned Government advocate takes notice on behalf of the respondents 1 and 2. Mr.Muniasamy, learner standing counsel takes notice on behalf of the respondents 3 and 4.

3.The case of the petitioner is that he is the owner of the building situated at R.S No.256/4 measuring to an extent of 2.840 cents by virtue of a sale deed in Doc.No.3272/2016. Since then, he has been in possession and enjoyment of the property.

4.The petitioner would state that even before he purchasing the property, a TASMAC Shop No.4819 was run by the respondents. Since it is situated within the prohibited limits as per the decision of the Hon'ble Supreme Court, the petitioner made a representation to the respondents to close or shift the said TASMAC shop. Since no action was taken, the present writ petition is filed.

5. Mr.G.Muthukannan, learned Government advocate appearing for the respondents 1 and 2 would submit that there is no proof for submitting the representation to the second respondent and if the petitioner gives fresh representation to the second respondent, the same would be considered on merits and in accordance with law.

6. Considering the limited scope of the prayer sought for by the petitioner and considering the submission of the learned Government Advocate, the petitioner is directed to give fresh representation enclosing a copy of this order within a period of two weeks from the date of receipt of a copy of this order. On such compliance, the second respondent shall consider the said representation and pass orders on merits and in accordance with law, within a period of four weeks, thereafter.

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

Sd/-
Assistant Registrar(CSI)



To:

1.The Secretary,
Home, Prohibition and Excise Department,
St.George Fort,
Chennai.

2.The District Collector,
Kanyakumari District.

+One cc to Mr.B.Thanga Aravindh, Advocate, SR.No.64805

+One cc to The Special Government Pleader, SR.No.65330

vsg/skn

RL/5C/3P/SKN/RSK/SAR1/21/7/2017

W.P. (MD) No.12811 of 2017

12/07/2017