



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.13923 of 2017

S.Balasubramanian

... Petitioner

-vs-

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The District Manager,
TASMAC,
Pudukkottai District,
Pudukkottai.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Pudukkottai District.

4.The Inspector of Police,
Aranthangi Police Station,
Aranthangi,
Pudukkottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents No.1 to 4 to ensure that the order of the District Collector, Pudukkottai District in Na.Ka.No.J4/421/2017, dated 12.06.2017 is implemented in strictosense by functioning the TASMAC Shop No.6697 at Survey No.116/6, Rathinakottai Village, Aranthangi Taluk, Pudukkottai District with sufficient police protection.

For Petitioner : Mr.R.Anand
For M.Eswaran

For Respondents : Mr.A.K.Baskarapandian
Special Government Pleader

O R D E R

<https://hcservices.eCourts.gov.in/hcservices/> This petition has been filed to direct the respondents No.1 to 4 to ensure that the order of the District Collector, Pudukkottai District in Na.Ka.No.J4/421/2017, dated 12.06.2017 is



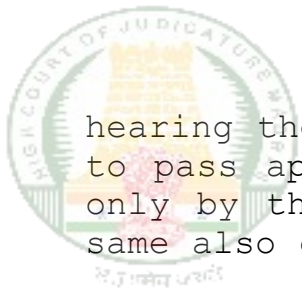
implemented in strictosense by functioning the TASMAC Shop No.6697 at Survey No.116/6, Rathinakottai Village, Aranthangi Taluk, Pudukottai District.

2. The case of the petitioner is that as per the order of District Collector, dated 12.06.2017, the TASMAC shop which war originally functioning in different place, was shifted to the petitioner's property. Though the land was originally a vacant land, the petitioner has also put up necessary construction for the use of his property for the benefit of TASMAC. It is the grievance of the petitioner that the TASMAC as proposed by the order passed by the District Collector, was not allowed to function. It is the case of the petitioner that some political motivated persons have filed some objections and as a result, the shop could not be commenced in the place as it was proposed.

3. The case of the petitioner is that the location of the proposed TASMAC shop bearing No.6697 is not within the prohibited distance from the Temple or Educational Institutions in compliance of the Rules. In such circumstances, the petitioner is entitled to get the relief to give positive direction to the respondents to implement the order of District Collector. The petitioner has given a representation to the 4th respondent to give police production so as to run the TASMAC shop at Survey No.166/6, Rathinakottai Village, Aranthangi Taluk, Pudukkottai District. The petitioner is not the licensee. It is only the second respondent who has been permitted to run the shop probably in the premises of the petitioner.

4. As the owner of the property, the petitioner cannot have any grievance, if the shop is not ultimately allowed to function as it was proposed. The petitioner has given his property only as a lessor and it is open to the petitioner to proceed against the second respondent, even if he has incurred as a lessor or some inconvenience is caused to him on account of the non-functioning of the TASMAC shop in his premises. It is stated that the local public have raised some objections to the commencement of the TASMAC shop in the place as it was permitted by the District Collector. In view of the position that it is the expectation of the State Government to implement the prohibition, though it is not a fundamental right of any citizen to prevent the opening of a TASMAC shop, it is open to the public to raise their objection having regard to the Rules if it is likely to affect public convenience or public order or cause nuisance or any other objection which is valid and substantial.

5. Though the District Collector, Pudukkottai District, has given permission, if there is objection from the local public, the District Collector may have to re-consider the decision and pass appropriate orders after giving notice to the local public. After



hearing the public grievance, it is open to the District Collector to pass appropriate orders. It is alleged that the objection is only by the persons having vested interest and from public. The same also can be considered by the District Collector.

6. However, this Court finds that the petitioner has no *locus standi* as the petitioner is neither aggrieved nor the petitioner is not concerned about the choice of location of TASMAC shop. Inasmuch as the owner of the property namely, the petitioner has no right to point out the place in which the TASMAC shop should be located, he is not entitled to seek enforcement of any order. Inasmuch as, it is reported that the public have objections and the same has to be considered by the District Collector, Pudukkottai District as a Administrative Head of the District.

7. It is open to the District Collector, Pudukkottai District, to reconsider his decision after giving opportunity to the local public or any other persons interested having regard to the Rules framed under the Prohibition Act, and public convenience and the public objections and other factors which are relevant for the purpose of maintenance of peace and public order.

8. The learned counsel for the petitioner submitted that petitioner's apprehension is that unless the police is given proper direction to give some protection to protect his building, there is a likelihood that the whole building of the petitioner will be damaged.

9. The learned Counsel for the third respondent fairly stated that they have already removed all the materials from the premises of the petitioner and therefore, this Court does not find any appreciable cause in the apprehension of the petitioner. Even if there is any damage to the petitioner's property, the petitioner as a lessor, is entitled to get compensation from the third respondent.

10. With the above directions, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

/ True Copy /

Sub Assistant Registrar(C.S.)

To:

1.The District Collector,
Pudukkottai District,
Pudukkottai.



2.The District Manager,
TASMAC,
Pudukkottai District,
Pudukkottai.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Pudukkottai District.

4.The Inspector of Police,
Aranthangi Police Station,
Aranthangi,
Pudukkottai District.

+1cc to M/S.M.ESWARAN, Advocate SR.No.68948

+1cc to Special Government Pleader, SR.No.69029

mm/cp

MAS/SKN-RSK/SAR2:09.08.2017:4P-7C

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27.07.2017