



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.14146 of 2017

Manjalaru Water Resource Users Association,
Batlagundu,
Represented by its,
President,
V.Shanmuganathapandian,
S/o.V.Veluservai,
8-10-5, South Street,
Batlagundu-624 202,
Dindigul District.

.. Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Dindigul,
Dindigul District.
2. The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Mullipadi Road,
Dindigul,
Dindigul District.
3. The Village Administrative Officer
and Birth and Death Registrar,
Batlagundu,
Dindigul District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents 1 and 2 herein to close the TASMAC shop bearing No.3170 which was relocated in agricultural land in survey No.622/1B1A of Batlagundu Village, Nilakottai Taluk, Dindigul District on the basis of the petitioner's representation made before them by RPAD dated 20.07.2017.

For Petitioner : Mr.B.Brijesh Kishore

For Respondents 1 and 3 : Mr.T.S.Md.Mohideen

<https://hcservices.ecourts.gov.in/hcservices/>

Additional Government Pleader

For 2nd Respondent : Mr.A.Arumugam

**ORDER**

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

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This writ petition has been filed for directing the respondents 1 and 2 to close the TASMAC shop bearing No.3170 which was reloated in Survey No.622/1B1A of Batlagundu Village, Nilakottai Taluk, Dindigul District.

2.When the writ petition was taken up for final disposal, a question was posed as to whether the building in which the TASMAC shop has been located is an approved one.

3.The learned counsel appearing for the second respondent fairly admitted that no building permit had been granted in favour of the premises in which TASMAC shop in Survey No.3170 has been located.

4.The writ petition has been filed by the Manjalaru Water Resource Users Association, Batlagundu Village. Their specific case is that the TASMAC shop is located in the agricultural land. Section 47 of the Tamil Nadu Town and Country Planning Act, 1971 states that the use and development of land must be in conformity with development plan. If the land in question is an area other than planning area, any person intending to carry out any development on any land in an area other than planning area shall make an application in writing to the local authority for permission.

5.Section 49 of the of the Tamil Nadu Town and Country Planning Act, 1971 envisages an application for permission to be made to the appropriate planning authority. Even after getting planning approval, the person seeking to develop the land must get building permit from the competent authority. In the present case, such an approval or permission has not been obtained.

6.Section 56 of the of the Tamil Nadu Town and Country Planning Act, 1971 specifically states that where any development of land or building has been carried out without permission, the appropriate planning authority may call upon the owner of the land or building to restore the original position. Even discontinuence of any use of land or building can be ordered. A building housing TASMAC Shop is necessarily a public building. It will be visited by people.

7.Therefore, this Court cannot shut its eyes. A building housing TASMAC Shop has to be necessarily an approved one. The TASMAC Shops cannot be allowed to be run in unapproved buildings. When this Court is taking a serious view of the unauthorised development of land committed by private individuals, it cannot ignore a similar action being resorted to by a state undertaking.



The Second respondent corporation also will have to conform to the rule of law. Since in this case, the land in question is agricultural in character and no planning permission or building permit has been obtained for putting up the premises in which TASMAC shop bearing No.3170 is housed, this Court has to necessarily direct its closure.

8.This writ petition stands allowed. No costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Office of the District Collector,
Dindigul, Dindigul District.
2. The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Mullipadi Road,
Dindigul, Dindigul District.
3. The Village Administrative Officer
and Birth and Death Registrar,
Batlagundu,
Dindigul District.

+ 1 CC TO Mr.B.BRIJESH KISHORE, ADVOCATE IN SR No. 74832
+ 1 CC TO Mr.H.ARUMUGAM, ADVOCATE IN SR No. 74955
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 75163

VSG/TA

TE/MR-KKR/SAR-II : 12/09/2017 : 3P/7C

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28.08.2017