

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2018

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.21262 of 2018

and

WMP No.24934 of 2018

J.Ramesh Kumar

... Petitioner

vs

1.The Managing Director,
Tasmac Limited,
4th Floor, CMDA Tower-II,
Egmore,
Chennai 600 008.

2.The District Manager,
Tasmac Limited,
Coimbatore South,
Goundampalayam,
Coimbatore.

3.The Senior Regional Manager,
Tasmac Limited,
Peelamedu,
Coimbatore.

4.The Supervisor,
Tasmac Limited,
Tasmac No.1891,
Pollachi.

5.The Inspector of Police,
Pollachi East Police Station,
Pollachi.

6.Rangasamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records relating to the impugned communication dated 11.07.2018 vide Na.Ka.No.950/2018/R.V.2, passed by the second respondent, quash the same and consequently, direct the respondents 1 to 5 to

restore the eatery in the bar attached with the Tasmac Shop No.1891, opposite to ATSC Theater, Pollachi in compliance of the tender proceedings of the 2nd respondent dated 26.02.2018 in Na.Ka.No.655/2018/RV-2 to the petitioner, to enable the petitioner to run the said business in a peaceful manner and consequently direct the respondents jointly and severally pay a reasonable compensation amount for the loss incurred and mental agony caused to the petitioner.

For Petitioner : Mr.D.R.Arun Kumar
For Respondents : Mr.K.Satish Kumar for R1 to R4
Standing Counsel
Mr.N.Inbanathan for R5
Additional Government Pleader
No Appearance for R6

O R D E R

The petitioner is aggrieved against the proceedings of the second respondent dated 11.07.2018. Consequently, the petitioner also seeks direction to the respondents 1 to 5 to restore the eatery in the bar attached with the Tasmac Shop No.1891, opposite to ATSC Theater, Pollachi.

2.Heard Mr.D.R.Arunkumar, learned counsel for the petitioner and Mr.K.Satish Kumar, learned Standing counsel appearing for the respondents 1 to 4. Mr.N.Inbanathan, learned counsel takes notice for the fifth respondent. Though notice was served on the sixth respondent privately, he has not chosen to appear before this Court either in person or through counsel. His name is printed in the causelist.

3.The petitioner was granted a license to run a bar attached with tasmac shop No.1891 originally located at Kottur Road, Vanjiyapuram Division, Pollachi Taluk, Coimbatore South District. However, in pursuant to the order passed by this Court in W.P.No.23974 of 2017 dated 28.04.2018, the said tasmac shop was closed with effect from 28.04.2018. Consequently, the bar attached with the said shop was also closed and such closure is communicated to the petitioner through the impugned order. The grievance of the petitioner is that after closure of the said shop at the above said premises, the respondents 1 to 4 are running the said shop at the present premises viz., opposite to ATSC Theatre, Pollachi by not permitting the petitioner to continue the said bar in the present premises.

4.Learned counsel for the petitioner submitted that the petitioner has invested huge sum in establishing the bar and therefore, the respondents are not justified in preventing the petitioner from running the bar in the present premises as well.

5. On the other hand, Mr. K. Sathishkumar, learned counsel for the respondents 1 to 4 submitted that admittedly, the said tasmac shop is being run in a different premises owned by the sixth respondent, from whom the petitioner has not obtained any consent/permission for running a bar. Therefore, he submitted that the petitioner is not entitled to seek permission to run the bar in the present premises as a matter of right. Learned counsel further submitted that for running the bar in the present premises, the respondents 1 to 4 are contemplating to issue license through public auction and therefore, if the petitioner is willing to take part in the public auction, it is open to him to do so. Learned counsel further contended that if any amount is due and payable to the petitioner out of the deposits already made by him, the same will be refunded to him without any loss of further time.

6. Considering the above stated facts and circumstances, more particularly, the fact that the said tasmac shop is being run in a different place said to be owned by the said sixth respondent, I do not think that the petitioner is entitled to run the bar in the present premises without there being any permission or consent given by the sixth respondent. Even otherwise, when there is a change of premises, permission to run the bar attached with the said shop has to be done by way of inviting fresh public auction, which the respondents are intending to do so.

7. In view of the above stated facts and circumstances, I do not think that the petitioner's prayer in the writ petition can be entertained. However, as it is admitted by the learned counsel for the respondents 1 to 4 that any amount due to the petitioner out of the deposit already made will be paid immediately, the respondents 1 to 4 are directed to refund the said amount due and payable to the petitioner within a period of two weeks from the date of receipt of a copy of this order. It is open to the petitioner to take part in the fresh public auction, if any invited in future. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Managing Director,
Tasmac Limited,
4th Floor, CMDA Tower-II,
Egmore,
Chennai 600 008.

2.The District Manager,
Tasmac Limited,
Coimbatore South,
Goundampalayam,
Coimbatore.

3.The Senior Regional Manager,
Tasmac Limited,
Peelamedu,
Coimbatore.

4.The Supervisor,
Tasmac Limited,
Tasmac No.1891,
Pollachi.

5.The Inspector of Police,
Pollachi East Police Station,
Pollachi.

+1cc to Mr.K.Sathishkumar, Advocate, S.R.No.62092

+1cc to Mr.D.R.Arunkumar, Advocate, S.R.No.62329

+1cc to the Government Pleader, S.R.No.62666

सत्यमेव जयते

W.P.No.21262 of 2018

CA (CO)
GSP (19/09/2018)

WEB COPY