

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.04.2018

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition Nos. 4996 and 7400 of 2018
and

W.M.P. Nos. 6180, 9189, 9190 and of 2018

T. Kalavathy

...Petitioner (in both Wps)

Vs.

1. The Tamil Nadu State Marketing Corporation Limited (TASMAC),
Represented by its Managing Director,
Thalamuthu Natarajan Maaligai,
Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Tamil Nadu State Marketing Corporation Limited (TASMAC),
Represented by its Senior Regional Manager,
L.L.A. Buildings,
Anna Salai,
Chennai - 600 002.
3. The Tamil Nadu State Marketing Corporation Limited (TASMAC),
Represented by its District Manager,
Chennai (South) District,
No. B4, Ambattur Industrial Estate,
Ambattur, Chennai - 600 058.
4. M. Rajendran ...Respondents (in both WPs)
5. D. Manoharan
R-5 impleaded as per order passed
today in W.M.P. No. 10782 of 2018
of W.P. No. 7400 of 2018.
...Respondent-5 in W.P. No. 7400 of 2018.

Prayer in W.P. No. 4996 of 2018:

Writ Petition, filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the respondents 1 to 3 from permitting M. Rajendran, the 4th respondent to do business in the bar premises of the petitioner attached to the TASMAC wine Shop No. 729 at Door No. 41, Gangai Amman Koil Street,

Jafferkhanpet, Ashok Nagar, Chennai - 83 and consequently to direct the respondents 1 to 3 to notify the TASMAL wine Shop No.729 for grant of bar licence for the current period.
Prayer in W.P.No.7400 of 2018:

Writ Petition, filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the order of the 3rd respondent, dated 01.02.2018 in Na.Ka.No.1655/B1/2017 and to quash the same.

For Petitioner (in both WPs)	:	Mr.K. Selvaraj
For Respondents 1-3 (in both WPs)	:	Mr.P. Arumuga Rajan Standing Counsel
For Respondent-4 (in both WPs)	:	Mr.K. Vijayaraghavan
For Respondent-5 (in W.P.No.7400/2018)	:	Mr.A. Manoj Kumar For Mr.D.Manoharan

C O M M O N O R D E R

Heard Mr.K.Selvaraj, the learned counsel appearing for the petitioner, Mr.P.Arumuga Rajan, the learned Standing Counsel for respondents 1 to 3/TASMAL, Mr.K.Vijayaraghavan, the learned counsel for the fourth respondent and Mr.A.Manoj Kumar, the learned counsel for the newly impleaded fifth respondent. Since the issue involved in both the Writ Petitions is identical, and the relief sought for thereunder are interconnected, they were heard together and disposed of by this common order.

2. The petitioner is one of the co-owners of the property, bearing Door No.41, situated at Gangai Amman Koil Street, Jafferkhanpet, Ashok Nagar, Chennai -83, where, there is a TASMAL retail vending liquor shop, attached to the Bar, bearing Wine Shop No.729. The fourth respondent, M.Rajendran, is the erstwhile licensee, who has been granted license to sell eatables, snacks and collect empty bottles, cartons, etc., from the said TASMAL retail vending shop. The property, in question, is the absolute property of the petitioner, which is a joint property and there are 11 co-owners and one among them is the newly impleaded fifth respondent. The fourth respondent was the erstwhile licensee, who had been continuing till 2016, based on a Lease Deed executed by the petitioner and No Objection Certificate (NOC) granted by other co-owners.

3. The petitioner on 18.02.2018 has granted NOC to one Mr.Sundarrajan, to run the Bar for the period from 19.02.2018 to 18.02.2019. Therefore, the petitioner's case is that, when

there is no NOC granted in favour of the fourth respondent, the question of permitting the fourth respondent to run the facilities in the Bar does not arise. In this regard, the learned counsel for the petitioner has drawn the attention of this Court to Clause (V) of the Tender Condition, and submitted that, in terms of the said clause, production of NOC is mandatory.

4. Initially, the petitioner sought for a writ of mandamus to forbear the respondent/TASMAC from permitting the fourth respondent to do business in the bar premises. At that juncture, the petitioner came to know that the licence, dated 01.02.2018, was issued in favour of the fourth respondent, M.Rajendran. Therefore, the second Writ Petition is filed, challenging the said Licence Order, dated 01.02.2018.

5. There is no dispute that the period of the licence itself is anti-dated. However, for the purpose of deciding the controversy involved in these Writ Petitions, this aspect need not be gone into. Licence has been granted only till 30.04.2018. Admittedly, the Lease Deed executed by the petitioner T.Kalavathi, in favour of the fourth respondent is valid upto 30.04.2018, and there is no renewal of lease for the subsequent period. Therefore, the respondent/TASMAC cannot rely upon the covenants in the Lease Deed, and issue licence, dated 01.02.2018, in favour of the fourth respondent and consequently, the fourth respondent, in terms of the said impugned licence, dated 01.02.2018, cannot continue till 30.04.2018, on account of certain internal dispute among the 11 co-owners. It appears that the fifth respondent has granted NOC in favour of another third person. Thus, each of the co-owners gives individual NOCs and executes individual lease deeds in respect of the same property, in question. This problem, if allowed to continue, it will ultimately result in closing of the Bar and even also closing of the shop in question. If that is done, all the 11 co-owners, including the petitioner and the fifth respondent will be affected. Therefore, in better sense, all the 11 co-owners should act in oneness so as to preserve the property and earn good income from the Shop.

6. In the light of the above, this Writ Petition is disposed of, by directing the respondent/TASMAC not to permit the fourth respondent, M.Rajendran to continue as a licensee beyond 30.04.2018. Thereafter, it is open to the respondent/TASMAC from proceeding fresh tender. In the event, the fourth respondent, M. Rajendran is able to secure NOC from all the 11 co-owners, then, the respondent/TASMAC shall take appropriate action on the request of the fourth respondent. As observed earlier, all the 11 co-owners, in spite of other civil disputes between them should shed their differences only on this

aspect, so that the property fetches a reasonable income. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

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To

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Chennai (South) District,
No.B4, Ambattur Industrial Estate,
Ambattur, Chennai - 600 058.

+2cc to Mr.K.Selvaraj, Advocate SR.No.26858
+1cc to Mr.P.Arumugarajan, Advocate SR.No.26682
+1cc to Mr.K.Vijayaragavan, Advocate SR.No. 26748

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Writ Petition Nos.4996 and 7400 of 2018

MR(CO)
GN(25/04/2018)