

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.7.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

WRIT PETITION NO.17724 OF 2018 & WMP.NO.21002 OF 2018

G.Muthu, Secretary, Sundaram
Pillai Nagar Residential Development
Association

...Petitioner

Vs

1. The District Collector, Chennai
District, Rajaji Salai, Singara
Velar Maligai, Chennai-1.
2. The Managing Director, TASMAC
(Tamil Nadu State Marketing
Corporation), Egmore, Chennai-8.
3. The District Manager, Chennai
North, TASMAC, Flat No.B4,
Industrial Estate, Ambattur,
Chennai-58.
4. The Regional Manager, TASMAC,
LLA Buildings, 4th Floor, Anna Salai,
Chennai-2.

...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Mandamus forbearing
respondents 1 to 4 from opening the retail shop TASMAC shop with
bar at No.71, 5th Main Road, Sundaram Pillai Nagar, Tondaiarpur,
Chennai-81 and any other place in the locality of Sundaram
Pillai Nagar.

For Petitioner : Ms.T.Sreelekha

For Respondent-1 : Mr.S.Kamalesh Kannan, GA

For Respondents 2 to 4 : Mr.P.Arumugha Rajan

ORDER OF THE COURT WAS MADE BY T.S.SIVAGNANAM, J

Mr.S.Kamalesh Kannan, learned Government Advocate accepts notice for the first respondent. Mr.P.Arumugha Rajan, learned Standing Counsel accepts notice for respondents 2 to 4. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a secretary of a residential development association in Tondiarpet. The above writ petition has been filed as a public interest litigation on behalf of the residents of the area seeking a Writ of Mandamus to forbear respondents 1 to 4 from opening the TASMAG shop with bar at No.71, 5th Main Road, Sundaram Pillai Nagar, Tondiarpet, Chennai-81.

3. The petitioner's case is that the shop in question infringes the distance rule, that there is a school near the proposed location and that there is a place of worship namely church located within the prohibited distance. Therefore, the petitioner sent a representation dated 22.2.2018 to respondents 1 and 2. The petitioner also sent a representation to the Honourable Chief Minister Special Cell, in which, the residents of the area, numbering around 270, are stated to have signed the representation.

4. On perusal of the representation dated 22.2.2018 given to respondents 1 and 2 and the representations dated 24.2.2018 given by both the Church Authorities as well as the school management, we find that the representations are absolutely vague. In the representation dated 22.2.2018 given by the residential development association, they would state that the proposed shop is within the prohibited distance of 200 meters.

5. The learned Standing Counsel for the respondent - Corporation submits that since the proposed shop is to be located within a distance of 50 meters of the metropolitan city, the proposed location does not infringe the distance rule. However, he would further submit that the District Collector is yet to give no objection for the proposed location and that the matter is under consideration.

6. Considering these facts, we dispose of this writ petition by directing the petitioner to submit a detailed representation to the first respondent along with a copy of this order. In the representation to be filed before the first respondent, the petitioner shall include a sketch and explain as to what is the prejudice that would be caused to the residents of the area concerned. On receipt of such a representation, the first respondent is directed to depute one of the officers to conduct

an inspection of the proposed location and submit a report and after receipt of such a report, take a pragmatic decision in the matter as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. Since the shop in question is yet to be opened, till a decision is taken by the first respondent on the representation to be given by the petitioner in terms of the above order, the shop shall not be opened. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

RS

To

1. The District Collector,
Chennai District, Rajaji Salai,
Singara Velar Maligai, Chennai-1.
2. The Managing Director,
TASMAC (Tamil Nadu State Marketing Corporation),
Egmore, Chennai-8.
3. The District Manager, Chennai North,
TASMAC, Flat No.B4, Industrial
Estate, Ambattur, Chennai-58.
4. The Regional Manager, TASMAC,
LLA Buildings, 4th Floor, Anna Salai,
Chennai-2.

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.45999
+1cc to Mr.P.Arumugha Rajan, Advocate, S.R.No.46297
+1cc to the Government Pleader, S.R.No.46318

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RJ(CO)
CS/26/07/18