



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.7138 of 2017

and

W.M.P.No.7737 of 2017

S.Sivakumar

... Petitioner

vs.

1.The District Collector,
Thiruvallur District, Thiruvallur.

2.The Managing Director,
Tamilnadu State Marketing Corporation (TASMAC),
CMDA Towers, Egmore,
Chennai 600008.

3.The District Manager,
Tamilnadu State Marketing Corporation (TASMAC),
No.G29-30, Sidco Industrial Estate,
Kakkalur, Thiruvallur District 602 003.

4.R.Dasarathan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents especially the respondents 2 and 3, from opening or shifting, a retail vending of Indian Made Foreign Liquor Shop, popularly known as TASMAC shop/Bar, in Sridevi Kuppam Village, at Plot No.8 Old Survey No.25/1, New S.No.25/1A, of No.178 Venmanampudur Revenue Village, behind the existing Hindustan Petroleum Petrol bunk, in the Kadambathur-Thiruvallur State Highway, near the Sridevi Kuppam bus stand, in pursuant to the representation dated 06.03.2017.

For Petitioner : Mr.R.Selvakumar

For R1 : Mr.T.N.Rajagopalan
Government Pleader.

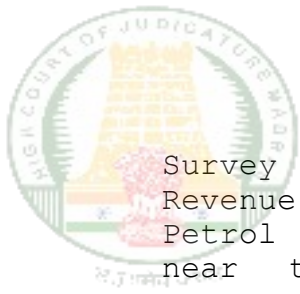
For R2 & R3 : Mr.Nedunchezian
Standing Counsel of TASMAC

For R4 : No Appearance.

ORDER

(Order of the Court was made by S.MANIKUMAR, J)

Petitioner has sought for Mandamus, forbearing respondents 2 and 3, from opening or shifting, a retail vending of Indian Made Foreign Liquor Shop, popularly known as TASMAC shop/Bar, in Sridevi Kuppam Village, at Plot No.8 Old



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Survey No.25/1, New S.No.25/1A, of No.178 Venmanampudur Revenue Village, behind the existing Hindustan Petroleum Petrol bunk, in the Kadambathur-Thiruvallur State Highway, near the Sridevi Kuppam bus stand, pursuant to the representation dated 06.03.2017.

2. On 13.04.2017, the Hon'ble First Bench of this Court, has passed the following order:-

"The main writ petition has been filed with a prayer seeking mandamus forbearing respondents 2 and 3 from opening or shifting a retail liquor vending shop, i.e., IMFL shop (TASMAC shop / bar) in Sridevi Kuppam Village at Plot No.8, old Survey No.25/1, New S.No.25/1A of No.178, Venmanampudur Revenue Village, behind the existing Hindustan Petroleum Petrol bunk in the Kadambathur-Thiruvallur State Highway near Sridev Kuppam bus stand.

2. It is seen that the second and third respondents (TASMAC) have filed a counter affidavit.

3. It is now the specific case of the writ petitioner that this proposed site is located within 100 metres from a temple, namely, Kadamba Vana Murugan Temple.

4. In this regard, our attention is drawn to a sketch given at page No.17 of the typed set of papers.

5. On the above basis, learned counsel for the writ petitioner contends that the proposed site is violative of Rule 8(1) of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003.

6. Be that as it may, it is seen from Rule 9 that there shall be no change in the location of shops except with previous permission of the Collector. Therefore, with regard to location of shops (proposed site in this case), under the said rule, it is the Collector, who has to take a call. The District Collector is respondent No.1 before us.

7. We direct the first respondent to cause an inspection of the proposed site to be made and also an inspection to an extent of 100 metres radius therefrom and file an affidavit before this court as to whether the proposed site is within 100 metres from the temple as alleged.

8. Post the matter on 27.4.2017."

3. Pursuant to the above order, District Collector, Thiruvallur District, who was inspected the site, has submitted a status report, dated 26.04.2017, the same is extracted hereunder:-

"4. It is further submitted that, while hearing the above said case on 13.04.2017 this Hon'ble High Court among other things that, has directed as follows:-



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"7. We direct the first respondent to cause an inspection of the proposed site to be made and also an inspection to an extent of 100 metres radius there from and file an affidavit before this Court as to whether the proposed site is within 100 metres from the temple as alleged'

5. It is submitted that, in pursuant to the orders of this Hon'ble High Court above, I have inspected the suit site n 25.04.2017, along with Additional Director (survey), Assistant Commissioner (Excise), Based on my inspection I am submitting my report as follows:-

The alleged building identified for shifting of TASMAC Retail Vending shop No.9027 by District Manager (TASMAC) which is located at plot No.8, Old S.F.No.25/1, New S.F.No.25/1A of No.178. Venmanampudur Revenue Village, Tiruvallur Taluk and District. The Tirupattchur to Kadambathur Major District Road (MDR) go North to South. The building identified for TASMAC Retail Vending Shop and the Hindustan Petroleum Petrol Bunk are laid on eastern side of the road located. The Kadampavana Murugar Temple is located western side of the Road and 125 meters away from the suit site. The Sridevikuppam bus stop is located southern side of the Hindustan Petroleum Petrol Bunk and 108 meters away from the identified site. The Selvavinayagar Temple is located estern side of the alleged building, which is 104 meters away from the suit site."

4. On this day, when the matter came up for hearing, Mr.R.Selvakumar, learned counsel for the petitioner submitted that TASMAC Retail Vending Shop No.9027, has been located in some other place, other than Plot No.8 Old Survey No.25/1, New S.No.25/1A, of No.178, Venmanampudur Revenue Village. Submission is placed on record.

5. In view of the subsequent development and in view of the submission of the learned counsel, prayer has become infructuous. Accordingly, writ petition is dismissed. No Costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar



To

1. The District Collector,
Thiruvallur District,
Thiruvallur.

2. The Managing Director,
Tamilnadu State Marketing Corporation (TASMAC),
CMDA Towers, Egmore,
Chennai 600008.

3. The District Manager,
Tamilnadu State Marketing Corporation (TASMAC),
No.G29-30, Sidco Industrial Estate,
Kakkalur, Thiruvallur District 602 003.

+1cc to Mr.R.Selvakumar, Advocate SR.NO.66907

+1cc to Mr.P.Arumugarajan, Advocate SR.NO.66845

GJII(CO)

sm:12.10.2018

W.P.No.7138 of 2017

and

W.M.P.No.7737 of 2017