

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.25212 of 2018
and
WMP No.29313 of 2018

N.Kamaraj

... Petitioner

Vs.

1. The Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC)
Rep. by its Managing Director
Thalamuthu Natarajan Building
Gandhi Irvin Road,
Egmore, Chennai-600 008.
2. The Senior Regional Manager
Tamil Nadu Marketing Corporation Ltd., (TASMAC)
No.735, LLA Building, 4th Floor
Anna Salai, Chennai-600 002.
3. The District Collector
Kancheepuram District
Kancheepuram.
4. The District Manager (TASMAC)
Orikai, Kancheepuram Taluk
Kancheepuram District.
5. The District Manager
Tamil Nadu State Marketing Corporation Ltd., (TASMAC)
Chennai South District
B-4, Ambattur Industrial Estate
Ambattur, Chennai-600 058.

... Respondents

Writ petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the respondents, their men, agents, subordinates and any others claiming through them from in any manner either installing or putting up any Tasmac shop or any Wine Shop in S.No.8/4, Ponnurangam Street, Pozhichalur, Chennai-600 074.

For Petitioner: Mr.S.Balasubramanian

For Respondents: Mr.P.Arumugam
standing counsel for R1,2,4 & 5
Mr.N.Inbanathan
Additional Government Pleader
for R3

O R D E R

Mr.P.Arumugam, learned standing counsel takes notice for the respondents 1, 2, 4 & 5. Mr.N.Inbanathan, learned Additional Government Pleader takes notice for the third respondent. By consent of the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner seeks for mandamus to forbear the respondents from locating a Tasmac shop at S.No.8/4, Ponnuram Street, Pozhichalur, Chennai-600 074.

3. The grievance of the petitioner is that such proposed location, apart from affecting the public, would also violate the distance rules. Ventilating such grievance, the petitioner has already made a representation on 03.07.2018 to the respondents and the said representation is said to be pending consideration.

4. The learned counsel for the petitioner submitted that the very same petitioner earlier approached this Court and filed WP.No.18677 of 2015 against the proposed location of a wine shop at the very same premises and this Court, after getting a report from the Advocate Commissioner appointed by this Court, directed the District Collector, Kancheepuram as well as the District Manager, Tamil Nadu State Marketing Corporation Ltd., to consider the petitioner's objection along with the report filed by the Advocate Commissioner, after making an inspection of the site and thereafter, pass a reasoned order on merits and in accordance with law. He further submitted that even though such direction was issued, the respondents have neither conducted any enquiry or field inspection nor passed any order on the petitioner's representation earlier made, as stated supra, till this date. When such being the factual position, it is contended before this Court that the respondents are trying to locate the Tasmac shop at the very same premises, now, after four years. Therefore, it is submitted that the said location cannot be permitted, as it is against the interest of public as well as against the distance rules.

5. The standing counsel for the respondents 1, 2 4 and 5, based on instructions, submitted that till this date, the Tasmac shop is not located in the disputed site and therefore, the petitioner's representation dated 03.07.2018 will be considered and appropriate orders will be passed on merits and in accordance with law.

6. It is seen that the petitioner has approached this Court earlier against the location of the Tasmac shop as early as in the year 2013, wherein, this Court passed the order on 21.11.2014 in W.P.No.18677 of 2013 as follows:-

"After considering the submissions made on either side, the writ petition is disposed of, by directing the third respondent to consider the petitioner's objection along with the report filed by the learned Advocate Commissioner and after issuing notice to the petitioner, TASMAC as well as the sixth respondent, if necessary, the District Collector is directed to depute his subordinate officers to make an inspection of the site and thereafter, pass a reasoned order on merits and in accordance with law. Above direction shall be complied with within a period of three weeks from the date of receipt of a copy of this order."

7. It is contended that the respondents have neither conducted any inspection or enquiry nor passed any order on the petitioner's representation so far. If that is the fact, certainly, the respondents, in defiance of the order already passed, cannot locate the Tasmac shop at the very same premises without complying with the earlier directions issued by this Court. As the petitioner has already made a representation on 03.07.2018, the respondents, more particularly, the third respondent shall consider the said representation of the petitioner and pass orders on the same on merits and in accordance with law in the light of the directions already issued by this Court in WP.No.18677 of 2013 dated 21.11.2014. Accordingly, this writ petition is disposed of, by directing the third respondent to consider the representation of the petitioner dated 03.07.2018 and pass orders on the same on merits and in accordance with law, in the light of the order already passed in WP.No.18677 of 2013 dated 21.11.2014 within a

period of four weeks from the date of receipt of a copy of this order. Till an order is passed by the third respondent as stated supra, the respondents are restrained from locating the Tasmac shop in the above said subject matter premises. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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Ambattur, Chennai-600 058.

+1cc to M/S.S.Balasubramanian, Sr.65723
+1cc to M/S.P.Arumugarajan, Advocate Sr.65757
+1cc to the Government Pleader Sr.65789

W.P.No.25212 of 2018

srg 25/09/2018