



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.21044 of 2018

WEB COPY

Vijayan

... Petitioner

vs.

1. The District Collector,
Office of the District Collector,
Theni District.

2. The District Manager,
TASMAC Limited,
Theni District.

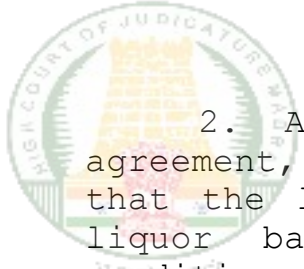
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus forbearing the second respondent from passing any order of shifting the TASMAC shop bearing No.8534 and also the Bar attached in the said premises in Survey No.1750/2, Ward No.D, Block No.16, Pallivasal Street, Theni District on the basis of the first respondent proceedings bearing Se.Mu.A.Na.Ka.No.9596/2017/PP1, dated 13.04.2017 and also further direct the second respondent to grant permission for continuing the TASMAC shop bearing No.8534 attached with Bar in pursuance of the petitioner's representation to the second respondent dated 10.09.2018.

For Petitioner : Mr.A.Uthayakumar
For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader
for R.1
: Mr.B.Jameel Arasu
for R.2

O R D E R

The case of the petitioner is that he has entered into a rental agreement with the landlord of the property bearing Survey No.1750/2, Ward No.D, Block No.16, Pallivasal Street, Theni District, for running a liquor bar in the TASMAC outlet, on 28.03.2018. The said agreement was entered into for a shop bearing No.8534 for a period from 28.03.2018 to 27.03.2019, agreeing for the terms and conditions imposed by the second respondent. In view of certain assurance made by the second respondent, the petitioner put up necessary infrastructure, for which he incurred expenditure to the tune of Rs.6,00,000/- (Rupees



2. According to the petitioner, prior to the rental agreement, the second respondent conducted an inspection and found that the location of the property was suitable for running the liquor bar, in conformity with the prohibition rules and conditions and also recommended to the first respondent by his proceedings dated 13.04.2017. While so, it appears that the second respondent is now trying to shift the TASMAL shop from the existing location for which the petitioner had entered into an agreement with the landlord. In such circumstances, the petitioner is before this Court seeking a writ of Mandamus forbearing the second respondent from passing any orders of shifting the TASMAL shop and also the bar attached to the said shop at Survey No.1750/2.

3. This Court is unable to appreciate as to how such a writ would lie, when the authorities are contemplating action in shifting of the shops in terms of rules governing the running of TASMAL outlet shops. In case, the petitioner has any grievance against the action taken by the second respondent, it is always open to him to approach the appropriate civil Court and claim damages for having suffered loss due to the promise meted by the second respondent. However, it is not open to the petitioner to prevent the authorities concerned from shifting of the shop on the ground of its unsuitability. In such matters, this Court cannot pass any orders against the rules and against the proposed action by the respondents. Even otherwise this Court is of the view that the dispute squarely falls within the realm of civil dispute as between the petitioner and the second respondent and such dispute cannot be brought within the ambit of Article 226 of the Constitution of India. It is open to the petitioner to approach the competent civil Court and establish the claim of damages suffered by him, if the action of the second respondent is found to be unjust and illegal.

4. For the above said reason, this Court is of the considered view that the writ petition is not maintainable and therefore, the same is dismissed. No costs.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (Cs-IV)

To

1. The District Collector,

<https://hcservices.courtserv.in/> District Collector,
Theni District.



2. The District Manager,
TASMAC Limited,
Theni District.

+1cc to Mr.A.Uthayakumar, Advocate Sr.No.89645

+1cc to Mr.B.Jameel Arasu, Advocate Sr.No.89328

+1cc to Spl.Government Pleader Sr.No.89184

SSL

VB/SKN/SAR4/01.11.2018/3P/6C

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