

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2019

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P No.3096 of 2019

and

WMP. No.3361 of 2019

T.S.Udhayasankar

.... Petitioner

Vs.

1. The District Collector,
Kanchipuram District,
Kanchipuram.

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

3. The Inspector of Police,
Kanchi Taluk Police Station,
Kanchipuram District,
Kanchipuram.

.... Respondents

PRAYER:PETITION filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the respondents 1 & 2 and their subordinates from running, establishing the TASMAC Shop No.4188 at Sevellimedu behind M.G.Palace, Kanchipuram Taluk, Kanchipuram District, based on the representation of the petitioner dated 07.12.2018.

For Petitioner : Mr.V.R.Kamalanathan

For Respondents : Ms.M.Lalitha,

Government Advocate for R1 & R3

Mr.P.Arumugarajan for R2

O R D E R

The petitioner had purchased a property at No.54, Sevelimedu Village, Kanchipuram District comprised in Old Survey No.441/3, New Survey No.441/3B to an extent of 30 cents, finding thereafter that a TASMAC shop, bearing No.4188 was situated in

the neighbouring plot. The shop however, did not have proper access from the road and it is the contention of the Mr.V.R.Kamalanathan, learned counsel appearing on behalf of the petitioner, that the respondents have encroached the petitioner's land and formed a foot path to enable the customers of the shop to access it.

2. The shop is stated to be managed by one Mrs.M.Bakkiyalakshmi who has also encroached upon the petitioners' land and erected toilets to be used by the customers who visit the TASMAL shop. Learned counsel for the petitioner submits that petitioner has filed a suit in O.S. No.126 of 2018 arraying the said Mrs.Bakkiyalakshmi as a defendant before the District Court, Kanchipuram praying for a declaration that the petitioner was the absolute owner of the property and a direction to the defendant not to interfere with his peaceful possession and enjoyment thereof.

3. An order of interim injunction has been granted in I.A. No.514 of 2018 by the learned District Judge, Kanchipuram, by order dated 06.10.2018. Thereafter, the petitioner has sent a representation to respondents 1 and 2, being the District Collector, Kancheepuram and The District Manager, TASMAL Limited as well as to the Assistant Commissioner of Police, Kancheepuram on 07.12.2018 seeking a re-location of the shop on the ground that his property was being used as access to the shop unauthorisedly without entering into an agreement with the land owners, which resulted in the depreciation of land value. The representation has been kept pending till date.

4. Ms.M.Lalitha, learned Government Advocate appears for respondents 1 and 3, the official respondents being, The District Collector, Kancheepuram and The Inspector of Police, Kancheepuram and Mr.P.Arumugaraja, learned counsel appears for the 2nd respondent, The District Manager, TASMAL Limited.

5. Mr.Arumugaraja points out that the allegation that the second respondent is sitting on the representation is factually incorrect as a notice of enquiry dated 12.12.2018 had been issued by R2, the District Manager, TASMAL Limited calling upon the petitioner to appear before the Authority on 19.12.2018 for adjudication of the representation. However, there was no response from the petitioner. In these circumstances, learned counsel appearing for the petitioner prays that one more opportunity be granted to the petitioner to appear before the authority to enable the authority to adjudicate upon the request of the petitioner. No serious objection is raised to this request of the petitioner by the respondents.

6. Accordingly, and in the interests of the Justice, this Court is inclined to grant one more opportunity to the petitioner to appear before the Authority. The petitioner is directed to appear before the 2nd respondent at 10.30 a.m. on 28.02.2019. No further notice will be issued in this regard. In the event the 2nd respondent is unavailable on the said date, the hearing will be held by him on a date as proximate to the date fixed by this court as possible, intimating the petitioner accordingly. Appropriate orders would be passed by the 2nd respondent upon the representation dated 07.12.2018 filed by the petitioner after affording due opportunity to the petitioner, within a period of one (1) month from the date of conclusion of the personal hearing and enquiry proceedings.

7. The Writ Petition is disposed of in the above terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

rkp

To

1. The District Collector,
Kanchipuram District, Kanchipuram.
2. The District Manager,
TASMAC Limited, Kanchipuram District,
Kanchipuram.
3. The Inspector of Police,
Kanchi Taluk Police Station,
Kanchipuram District, Kanchipuram.

+1cc to Mr.P.Arumugarajan, Advocate, S.R.No.10880

+1cc to Mr.V.R.Kamalanathan, Advocate, S.R.No.10997

+1cc to the Government Pleader, S.R.No.11842

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and

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CS/25/02/2019