

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 30.10.2019
CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.7005 of 2019
and
WMP No.7729 of 2019

C.J.Chinnaiah

...Petitioner

Vs.

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Commissioner,
Prohibition and Excise Department,
Chennai 600 005.
3. The Managing Director,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
No.8, IV Floor, CMDA Tower,
Gandhi-Irwin Road,
Egmore,
Chennai 600 008.
4. The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAC),
Chembarabakkam Village,
Thiruvallur.
5. P.C.Rajeswari,
No.2, Raja Agraharam Street,
Poonamallee, Chennai-56.
(R5 impleaded vide order dated 03.07.2019 made in
WMP No.17854 of 2019 in W.P.No.7005 of 2019 by MSJ)

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of mandamus to forbear the respondents from setting up or running a TASMAC Shop/Bar at 'Rajeswari Complex', Plot No.12, 13, 13A, M.G.Nagar Road, Poonamallee, Chennai 600 056.

For Petitioner : Mr.V.Chandraprabu
For Respondent : Mr.D.Suryanarayanan for R1 and R2
Additional Government Pleader
Mr.K.Sathish Kumar for R3 and R4
Mr.M.Santharaman for R5

O R D E R

The petitioner seeks for a mandamus forbearing the respondents from setting up or running a TASMAC Shop/Bar at 'Rajeswari Complex', Plot No.12, 13, 13A, M.G.Nagar Road, Poonamallee, Chennai 600 056. The fifth respondent, who is subsequently impleaded as party respondent, is the owner of the premises.

2. Heard both sides. Perused the respective pleadings of the parties.

3. The petitioner claiming to be the neighbor of the subject matter premises filed the present writ petition mainly by contending that the premises, at which the TASMAC shop is to be located, is without planning approval by the local authority. In other words, it is the claim of the petitioner that the TASMAC shop is proposed to be located in a place, which has no planning permission.

4. Rebutting such contention, the respondents filed their respective pleadings by contending that the proposed TASMAC shop is to be located in the ground floor of the subject matter premises only in an extent of 300 sq.ft., for which already planning permission is given by the local authority as early as on 09.08.2011. It is further contended by the learned counsel for TASMAC that apart from locating the TASMAC shop in the said 300 sq.ft. area to which building planning approval is already granted, no bar license is given to any person to locate the bar adjacent to the said shop. Therefore, the petitioner need not apprehend as if 2000 sq.ft. property is going to be used for locating the shop and the bar. He also submitted before this Court that as and when the bar license is sought to be issued, the Authorities will certainly verify as to whether proper building planning approval has been granted to the premises at which the bar is sought to be located.

5. Perusal of the planning permit dated 09.08.2011 granted by the Poonamallee Municipality shows that the said Authority has granted planning permit in the ground floor to an extent of 330 sq.ft. It is now stated that the shop is to be located only in 300 sq.ft. in the ground floor. If that be the case, I do not think that the petitioner's apprehension, as if the shop is going to be located in 2000 sq.ft. is well founded.

6. Considering the above facts and circumstances, this writ petition is disposed of by observing that the official respondents are bound to see as to whether any planning permission is granted, in the event of granting any bar license in future to the place, at which such license is sought for. However, insofar as the location of TASMAL shop is concerned, as it is seen that such location is to be made in a place, where the planning permission is already granted, I do not think that the petitioner could have any grievance against such location, if there is no other legal impediment to locate such shop in the abovesaid place. No costs. The connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

vri

To

1.The District Collector,
Thiruvallur District,
Thiruvallur.

2.The Commissioner,
Prohibition and Excise Department,
Chennai 600 005.

3.The Managing Director,
Tamil Nadu State Marketing Corporation Limited (TASMAL),
No.8, IV Floor, CMDA Tower,
Gandhi-Irwin Road,
Egmore,
Chennai 600 008.

4.The District Manager,
Tamil Nadu State Marketing Corporation Limited (TASMAL),
Chembarabakkam Village,
Thiruvallur.

+1 CC to Mr.K.Sathish Kumar, Advocate sr 90042
+1 CC to Mr.V.Chandraprabu, Advocate sr 90033
+2 CC to Mr.M.Santharaman, Advocate sr 89984
+1 CC to Govt. Pleader sr 90735

W.P.No.7005 of 2019

CP(CO)

SP(25/11/2019)