

WMP No.16972 of 2019
in WP No.15070 of 2019

S.MANIKUMAR, J.,

AND

SUBRAMONIUM PRASAD, J.,

[Order of the Court was made by **S.MANIKUMAR, J.**]

Proposing to implead himself as a party respondent, owner of the premises in which TASMAL Shop No.4144 is located has filed WMP No.16972 of 2019 for impleading. Supporting averments are as hereunder:

"2. It is humbly submitted that on 20.03.2002, the petitioner has purchased a house site measuring 1,656 Square Feet in Survey No.237/A/1A.1A in Old No.162, New No.129, at No.102, Chitlapakkam, Tambaram Taluk, Kancheepuram District by way of a Sale Deed dated 20.03.2002 and registered as Document No.1587 of 2002 on the file of the Sub Registrar, Tambaram. The Patta for the said property stands in the name of the petitioner. The Property Tax Assessment also stands in the name of the Petitioner. The petitioner is paying the property tax to the Chitlapakkam Town Panchayat.

3. It is humbly submitted that the TASMAL have conducted Field Inspection and found that the petitioner's shop is not situated within the prohibited distance of any place of worship, or Educational institution. Therefore, the TASMAL have opened the TASMAL Wine Shop No.4144 in the petitioner's building in the year 2003 and the Wine shop is being run in the petitioner's building for more than sixteen years. When the Honourable Supreme Court has passed an order to close the Wine Shops within 500 Meters from the Highways, the petitioner's Shop and the other shops have been closed. After the clarification Order passed by the Hon'ble Supreme Court, the TASMAL have by an order dated 10.7.2018 ordered to open the shop again in the Petitioner's building. Since the said order was not implemented the petitioner was constrained to file a writ petition in WP No.19186 of 2019 and this Honourable Court, by order dated 26.7.2018 was pleased to direct the TASMAL to open the shop within a period of one week from the date of receipt of a copy of the order. Thereafter, the TASMAL have opened the shop. The petitioner's shop is being run fully in accordance with the provisions of the Tamil

Nadu Prohibition Act, 1937, and the provisions of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003. In fact, the shop is situated in a commercial locality. The Bar Licence was also issued to one K.Janardhanan and he is paying the Bar Licence Fee of Rs.4,50,700/- per month to the TASMAL.

4. It is humbly submitted that while this being the position, the rival shop owners and the Bar Licensees of the TASMAL wine shop Nos.4450 and 4457 have made false allegations in order to close the TASMAL wine shop No.4144 which was functioning in the petitioner's building so that they could have better business in their shops and Bars. They have set up the present Writ Petitioner to file the above Writ Petition with a malafide intention to make unlawful enrichment at the cost of heavy loss to the petitioner. In fact, those two shops Nos 4450 and 4457 are situated within 500 Meters of the Petitioner's shop. The present writ petition has been filed only at the behest of the Bar Licensees and building owners of the said two shops. Therefore, the present writ petition is nothing but a clear abuse of the process of the Court and a malafide one.

5. It is humbly submitted that there is no place of worship within 100 meters of the petitioner's building. Since the area comes under the Tambaram Municipality, the prohibited distance is only 50 Meters. Since it is also a commercial area, the distance restriction would not apply to the petitioner's building. Therefore, the allegations mentioned in the Affidavit are totally false, baseless and motivated.

6. It is humbly submitted that with regard to the averments made in para 4 of the affidavit, the petitioner's building is an approved building and the petitioner has paid Rs.39,700/- towards the planning permission and other charges to the statutory authorities. The Building Approval has been granted by the Competent Authority.

7. With regard to the averments made in para 5 of the Affidavit, it is humbly submitted that the said Temple, namely Vinayagar Temple is situated beyond 100 Meters from the petitioner's building and it is also a road side temple. Since the area is also a commercial one, the distance restriction will not apply to the petitioner's building. The wine shop is being run for the past sixteen years. The writ petitioner has filed the

above writ petition only with a malafide intention and at the instance of the rival shop owners of Shop Nos.4450 and 4457. The other allegations mentioned in paragraph numbers 6, 7, 8 and 9 are false, baseless and motivated.

8. It is humbly submitted that though the petitioner is the building owner of the Shop No.4144 and he would be greatly affected in the event of any order passed in the above writ petition, he was not a party in the writ petition.

9. It is humbly submitted that the writ petitioner, for the reasons best known to him, has failed to implead the petitioner herein as the respondent in the writ petition. The petitioner herein is a proper and necessary party for adjudication of the above case. Therefore, the petitioner may be permitted to be impleaded as the respondent in the writ petition No.15070 of 2019. The petitioner craves leave of the Honourable Court to file a detailed Counter Affidavit in the Writ Petition No.15070 of 2019."

2. Neither the writ petitioner nor the official respondents have no objection for the proposed party to be impleaded. Placing on record the above, WMP No.16972 of 2019, is ordered.

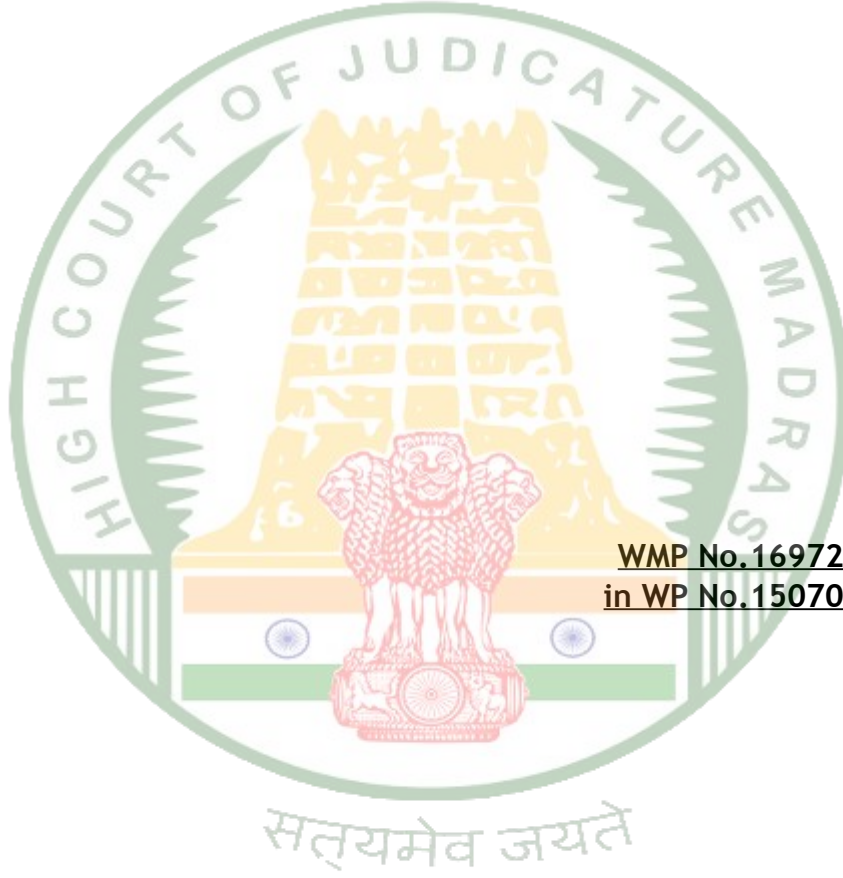
3. Registry is directed to show the name of Mr.K.Chandran, petitioner in WMP No.16972 of 2019 as 4th respondent in the writ petition. Registry is further directed to make necessary amendments wherever required.

[S.M.K.,J.] [S.P., J.]
24.06.2019
(1/2)

Note to office
Issue order copy today.
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S.MANIKUMAR, J.,
AND
SUBRAMONIUM PRASAD, J.,

ars



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