

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 18.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6437 of 2017
and
W.M.P.No.6945 of 2017

V.Devadoss

...Petitioner

Vs

1. The Senior Manager,
TASMAC Ltd.,
Chennai Division, Chennai - 600002.
2. TASMAC Ltd.,
Rep. by its District Manager,
B-4, Ambattur Industrial Estate,
Chennai (South) District, Chennai - 600058.
3. TASMAC Ltd.,
Rep. by its General Manager,
4th Floor, CMDA Tower II,
Gandhi Irwin Bridge Road,
Egmore, Chennai - 600008.
4. M.Rajaprakasam
5. P.Lakshmanan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus calling for the records relating to the order made in Sa.Mu.No.A9/1238/2016 dated 27.01.2017 passed by the 1st respondent, quash the same and consequently forbear the respondents 3 and 5 from running a liquor shop in the premises owned by the 4th respondent in Wine Shop No.512 at Door No.9/1 (Old No.5) at 4th Avenue, Ashok Nagar Main Road, Kodambakkam, Chennai - 600024 and a bar in the rear side of the liquor shop run by the 5th respondent.

For Petitioner : Mr.G.Ethirajulu

For Respondents: Mr.P.Arumugarajan, SC (TASMAC)
for R1 to R3

Mr.A.Jenasenan
for R4
Mr.B.Jeganath
for R5

O R D E R

The petitioner is aggrieved against an order passed by the second respondent herein directing the petitioner to approach the Civil Court to resolve their dispute with regard to the 5 feet passage leading to the Tasmac Shop No.512.

2. According to the petitioner, the enquiry conducted by the first respondent resulting in passing of the impugned order has been done by separately enquiring the petitioner and the fourth respondent and that both the parties were not heard together, which is in violative of the principles of natural justice. It is the further grievance of the petitioner in the grounds raised in the affidavit that the contentions raised by the petitioner during enquiry have not been dealt with. I am not in agreement with such grounds raised in this writ petition. Firstly, the impugned order is only an observation made, directing the parties to resolve their dispute before a Civil Court.

3. The learned Government Advocate had also submitted that the shop is actually more than 50 meters away from the site and located 500 meters from the National/State highway and as such, there is no violation with regard to the situation of the Tasmac Shop.

4. It is also seen that the real dispute revolves around 5 feet common passage between the petitioner and the private respondents herein. If at all there is any dispute with regard to usage and enjoyment of the passage, the proper remedy for these private parties is to resolve the same through a civil proceedings and the official respondents cannot be made responsible or liable for the dispute. While that being so, the observations made in the impugned order dated 27.01.2017, directing the parties to approach the Civil Court does not suffer from any infirmity.

5. Accordingly, the writ petition stands dismissed. If the grievance of the petitioner subsists, liberty is hereby granted to the petitioner to approach the appropriate Civil Court to resolve their disputes. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Senior Manager,
TASMAC Ltd.,
Chennai Division,
Chennai - 600002.
2. The District Manager,
TASMAC Ltd.,
B-4, Ambattur Industrial Estate,
Chennai (South) District,
Chennai - 600058.
3. The General Manager,
TASMAC Ltd.,
4th Floor, CMDA Tower II,
Gandhi Irwin Bridge Road,
Egmore, Chennai - 600008.

+1cc to Mr.A.Jenasenan, Advocate, S.R.No. 49819

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and
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NMI (CO)
GN(14/08/2019)