

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/2/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.13221 of 2017

Nandhivaram Radha Nagar
Residents Welfare Association
rep. By its Secretary
N.Bhuvana
Chennai 603 202.

.... Petitioner

Vs

1. The District Collector
Kancheepuram District.
2. The Managing Director
Tamil Nadu State Marketing Corporation Ltd
Thalamuthu Natarajan Maligai
4th Floor, 2nd Block
Egmore
Chennai 600 008.
3. The District Manager
Tamil Nadu State Marketing Corporation Ltd
Kancheepuram (South) District
Kancheepuram.
4. The Inspector of Police
H 2 Guduvancherry Police Station
Guduvancherry
Chennai.

...

Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus to forbear the respondents from running the TASMACH Shop No.4016 at Nellikuppam Road, Nandhivaram, Radha Nagar, Kancheepuram South District or its adjoining area of the said Village.

For petitioner Mr.R.Ramanlal

For Respondents Mr.Akhil Akbarali
Government Advocate
for R.R.1 and 4

Mr.P.Arumugarajan
Standing Counsel for TASMACH
for R.R.2 and 3.

ORDER

(Order of the Court was made by Subramonium Prasad, J)

Instant writ petition is for a writ of mandamus, to forbear the respondents, from running the TASMACH Shop No.4016, at Nellikuppam Road, Nandhivaram, Radha Nagar, Kancheepuram South District or its adjoining area of the said Village.

2. Petitioner states that petitioner is the Secretary of Nandhivaram Radha Nagar Residents Welfare Association. There was a proposal to locate a TASMACH shop, in Plot No.4016, at Nellikuppam

Road, Nandhivaram road, Nandhivaram, Guduvanchery. Hence, the petitioner submitted a representation, dated 3/12/2016, to the Secretary, Home Prohibition & Excise Department, Chennai. Petitioner further states that they came to understand that pursuant to the directions of the Hon'ble Supreme Court of India, TASMAC shop would be shifted. Therefore, respondents have chosen the present site to have the TASMAC shop. It is stated that the owner of the bar has threatened the petitioner Association, from opposing the opening of the shop or for relocating the shop. A criminal case has been filed against the owner of the shop. It has contended by the petitioner that liquor shop No.4016, which is now functioning in the residential is now opposed by all the residents. Petitioner further states that despite representation, respondents are not shifting the shop. He would state that, there are Schools near the shop. He would state that the functioning of the liquor shop, would entice students to go the liquor shop to purchase liquor.

3. Heard Mr.R.Ramanlal, learned counsel for the petitioner, Mr.Akhil Akbarali, learned Government Advocate for the respondents 1 and 4 and Mr.P.Arumugarajan, Standing Counsel for TASMAC/respondents 2 and 3.

4. Learned counsel for the petitioner has reiterated the submissions made in the writ petition.

5. Deputy Collector/District Manager, TASMAC, Kancheepuram/third respondent has filed a counter stating that the guidelines stipulated in Rule 8 (1) of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 have not been violated.

6. Permission to open a liquor shop by the competent authority, can be granted if only the conditions laid down in Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 are followed. Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, reads thus:-

"Location of shop: (1) No shop shall be established in Municipal Corporations and Municipalities within a distance of 50 (fifty) metres and in other areas 100 (hundred) metres from any place of worship or educational institutions:

Provided that the distance restriction shall not apply in areas designated as "Commercial" or "Industrial" by the Development or Town Planning Authorities:

Provided further that no shop shall be established within the premises of any hotel:

Provided also that if any place of worship, educational institution comes into existence subsequent

to the establishment of the shop, the provisions of this rule shall not apply:

Provided also that no liquor shops shall be established in any tribal areas covered under Integrated Tribal Development Project and Hill Area Development Project in the Hill area of Vellore, Salem, Namakkal, Dindigul, Tirunelveli and Kanniyakumari Districts.

(2). Every shop shall be housed in a pukka building and no part of the shops shall be thatched either on the sides or on the roof.

(3). The shop shall be in the location approved by the Collector before commencing the business in the shops."

7. Learned counsel for TASMAC would submit that the S.R.M. International school is situated at a distance more than 500 meters from the School. Similarly, Velammal school is more than 1 km., away from the liquor shop. Learned Counsel for TASMAC submits that Nagathamman temple is more than 500 meters away from the proposed site. TASMAC shop is located more than 500 meters from the National/State Highway. He would further submit that Shop No.4016 has been relocated as per the norms laid down by the Hon'ble Supreme Court and as per the rules framed by the State Government in Tamil Nadu Retail Liquor vending (in Shops and Bars) Rules, 2003. He would further submit that the petitioner has not given any particulars, regarding any disturbance that has been caused in the area, due to the opening of TASMAC shop.

8. In the absence of any materials, and merely on the basis of the representation, this Court, cannot accept the case of the petitioner that the TASMALC shop should not be allowed to be opened. Only because there is an apprehension or threat of nuisance in the area, Court cannot stop TASMALC shops from being opened, if it does not violate the judgment of the Hon'ble Supreme Court of India or Rule-8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003. This Court has only to see as to whether statute which regulates opening of the TASMALC shop has been violated or not. There is no violation of the Rules stipulated under Rule 8 of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003.

9. In view of the above, **there is no merit in the writ petition and accordingly, the same is dismissed.** No costs. Consequently, the connected Miscellaneous Petition is closed.

(S.M.K.,J) (S.P.,J)
27th February 2019

mvs.
Index: Yes/No.
Internet: Yes
Speaking/Non speaking

To

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The seal of the Tamil Nadu State Marketing Corporation Ltd is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. The lion capital is flanked by two red horses. Below the lion capital is a red wheel. The entire emblem is set against a green background with a white border. The text "TAMIL NADU STATE MARKETING CORPORATION LTD" is written in a circular path around the emblem. Below the emblem, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

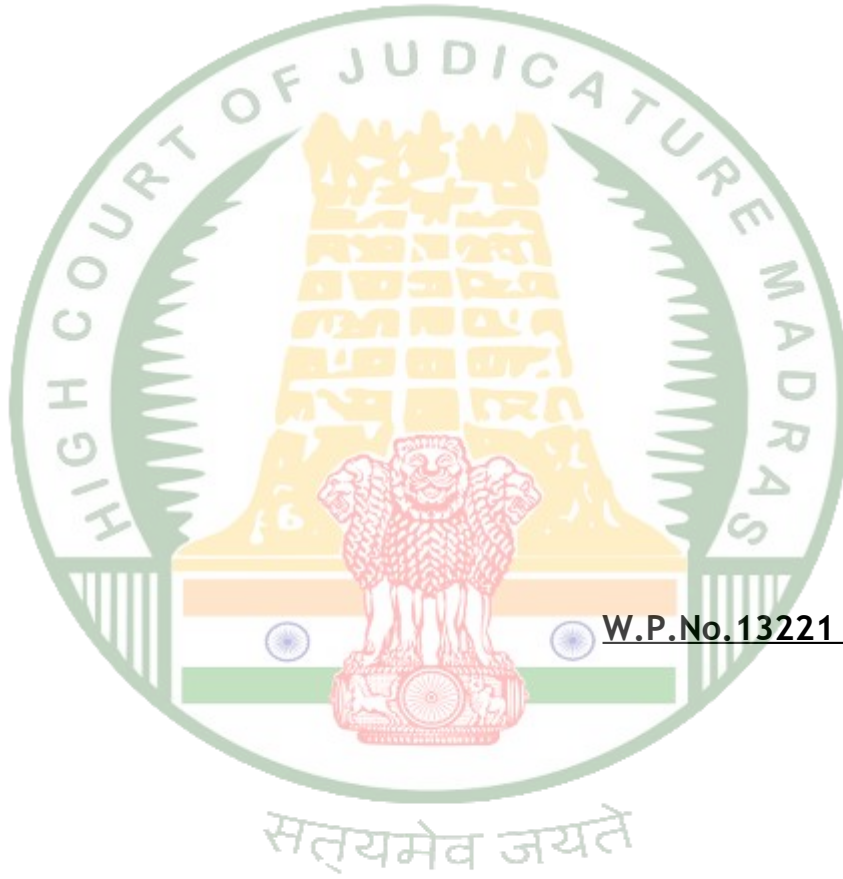
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S.MANIKUMAR,J

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