



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.842 of 2019

and W.M.P. (MD) No.6395 of 2019

M.Balasubramaniyan

... Petitioner

-vs-

- 1.The Secretary to Government of Tamil Nadu,
Home, Prohibition & Excise,
Fort St. George,
Chennai.
- 2.The Tamil Nadu State Marketing Corporation Ltd.,
Rep. by its Managing Director,
CMDA Tower - 11, 4th Floor,
Gandhi-Irwin Bridge Road,
Egmore, Chennai - 8.
- 3.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Chennai Region Lla Building,
Anna Salai,
Chennai - 600 002.
- 4.The District Collector,
Karur District,
Karur.
- 5.The Special Officer,
Karumpalayam Panchayat,
Karur Taluk and District.
- 6.Selvi
- 7.Baskar
- 8.Paulraj @ Babu

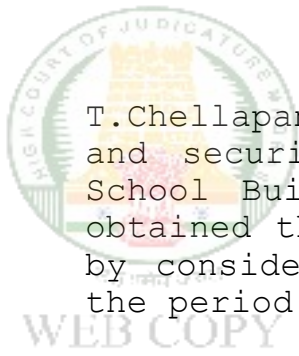
... Respondents

(R5 is suo motu impleaded vide Court order
dated 01.02.2019.

R6 to R8 are impleaded vide Court order dated
21.10.2019 in WMP (MD) No.19070 of 2019)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the TASMAC Wine Shop No.5066 and bar in the vicinity of its location Sukkaliyur Road,

<https://hcservices.ecourts.gov.in/hcservices/>



T.Chellapandipalayam, Karur - 3, which is causing threat to safety and security of school located near the T.Chellandipalayam High School Building along local city bus stop School which has also obtained the award of national clean school award in Karur District by considering petitioner's representation dated 19.11.2018 within the period stipulated.

For Petitioner	:	Mr.R.Suresh Prabhu
For Respondents 1, 4 & 5	:	Mr.A.K.Baskarapandian Special Government Pleader
For Respondents 2 & 3	:	Mr.H.Arumugam
For Respondents 6 to 8	:	Mr.K.Suresh

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.R.Suresh Prabhu, learned counsel appearing for the petitioner, Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the respondents 1, 4 and 5, Mr.H.Arumugam, learned Standing Counsel for the respondents 2 and 3 and Mr.K.Suresh, learned counsel appearing for respondents 6 to 8.

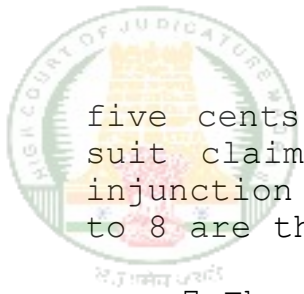
2.By consent on either side, this Writ Petition itself is taken up for final disposal.

3.This Writ Petition has been filed to shift the TASMACH Wine Shop No.5066 and the bar attached to it.

4.The petitioner in the affidavit filed in support of the Writ Petition has made few allegations that the shop is located to the close vicinity of the school and place of worship etc.

5.During the pendency of the Writ Petition it came to light that no building plan approval was obtained for putting up construction of the premises, which was to be leased out to liquor shop and bar attached. In fact, this Court *suo motu* impleaded the Special Officer, Karumpalayam Panchayat, Karur Taluk, Karur District and called upon him to show cause as to why disciplinary proceedings should not be initiated against him. This is so, because after the Writ Petition was filed, the Special Officer appears to have granted building permission for the building, which was already constructed.

6.The land owners got themselves impleaded as respondents 6 to 8 and they got a different story to say. It is their case that they appointed one R.Thangaraj as the Power of Attorney Agent to sell the shops and subsequently the same was cancelled. Thereafter, they sold



five cents of vacant site to one P.K.Sundar and he filed a civil suit claiming right to the shops and the petition for temporary injunction filed by him was dismissed holding that the respondents 6 to 8 are the owners of the shops.

7.The above facts have been placed fully in the form of an affidavit and also mentioned in the Court. The TASMACH should not get themselves included in the unnecessary litigation between two parties. *Prima facie*, building approval was granted only during the pendency of the Writ Petition. Therefore, it is appropriate on the part of the TASMACH to shift the shop.

8.Therefore, we direct the District Collector, Karur to take note of the facts and depute one of the officer to ascertain the facts and pass appropriate orders and issue necessary directions to TASMACH to locate the shop in an undisputed place. The above direction shall be complied with within three months from the date of receipt of a copy of this order.

9.Since we are disposing of the Writ Petition, we refrain from passing any orders against the Special Officer of the Panchayat, but his conduct should be taken note of by the District Collector.

10.The Writ Petition stands disposed of with the above directions. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

sj
To

1.The Secretary to Government of Tamil Nadu,
Home, Prohibition & Excise,
Fort St. George,
Chennai.

2.The District Collector,
Karur District,
Karur.



3.The Special Officer,
Karumpalayam Panchayat,
Karur Taluk and District.

WEB COPY

+1CC TO MR.H.ARUMUGAM, Advocate Sr. No.93617
+1CC TO MR.K.SURESH, Advocate Sr. No.93916
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 93523

W.P. (MD) No.842 of 2019
and W.M.P. (MD) No.6395 of 2019
21.10.2019

NS (CO)
TR(25.10.2019) 4P 7C