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W.P(MD)No.20574 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**

and

**THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.P (MD) No.20574 of 2019**

and

**W.M.P. (MD) No.17216 of 2019**

R.Vinod Kumar

.. Petitioner

Vs.

1.The District Collector,  
Nagecoil,  
Kanyakumari District.

2.The Assistant Commissioner,  
Prohibition and Excise Department,  
Nagercoil,  
Kanyakumari District.

3.The District Manager,  
Tamil Nadu State Marketing Corporation (TASMAC),  
Nagercoil,  
Kanyakumari District.

.. Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents herein to remove the TASMAC shop No.4820 situated at Palukal Panchayat limits, Vilavankode Taluk, Kanyakumari District and consequently direct the respondents herein not to open the new TASMAC shop within the palukal panchayat limit on the basis of the petitioner representation dated 05.09.2019.

For Petitioner : Mr.M.Sakthi Kumar

For R1 and R2 : Mr.A.K.Baskara Pandian  
Special Government Pleader

For R3 : Mr.B.Jameel Arasu

**ORDER**

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

Heard Mr.M.Sakthi Kumar, learned counsel for the petitioner Mr.A.K.Baskara Pandian, learned Special Government Pleader, for the respondents 1 and 2, and Mr.B.Jameel Arasu, learned counsel for the

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third respondent.

2. This petition has been filed to direct the respondents herein to remove the TASMACH shop No.4820, situated at Palukal Panchayat Limits, Vilavankode Taluk, Kanyakumari District.

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3. The petitioner asserts that the building plan approval has been granted only for ground and first floor and the respondent has constructed over and above the first floor, which is wholly illegal.

4. Referring to the counter affidavit, the learned counsel for the third respondent submitted that there is no violation of Rules and the writ petition was filed without any justification. It is contented that as per the Tamil Nadu District Municipality Act, owner of the bar has to obtain necessary permission from the concerned authority and construct the building, which is suitable for the location of the TASMACH shop. It is submitted by the learned counsel for the third respondent that the concerned Panchayat has issued building completion certificate on 01.10.2019. Therefore, it is submitted that the shop should not be closed.

5. Firstly from the photographs, it is seen that the building is yet to be completed and it is surprising how the Panchayat could have given completion certificate on 01.10.2019. Even assuming that it was given, it could have been given for ground and first floor. Over and above that Panchayat has no jurisdiction to grant approval. From the photographs it is seen that the building is a multi-storage building and the people are consuming liquor in the slit area to be used for parking facility.

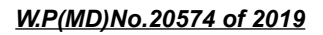
6. In any event, no bar facility can be provided in an open area in terms of the Rules in force. Therefore, the shop has to be closed. Hence, this writ petition is allowed and the respondents are directed to remove the TASMACH shop No.4820 and after closing the shop, it is open to the respondent TASMACH to apply to the District Collector for grant of No Objection Certificate, to relocate the shop in some other unobjectionable site. This order should be implemented within a period of 48 hours from today (i.e., 12.11.2019). No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS)



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