

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Eleventh day of June Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr.Justice B.PUGALENDHI

WP (MD) No.12185 of 2019

MUNIYASAMY

... PETITIONER

Vs

1 THE PRINCIPAL SECRETARY TO GOVERNMENT,
HOME PROHIBITION AND EXCISE DEPARTMENT,
SECRETARIAT, FORT ST.GEORGE, CHENNAI-09.

2 THE CHAIRMAN
TAMIL NADU STATE MARKETING CORPORATION LIMITED,
CMDA TOWER-II, IV FLOOR,
GANDHI IRWIN BRIDGE ROAD,
EGMORE, CHENNAI-8.

3 THE DISTRICT COLLECTOR,
RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

4 THE DISTRICT MANAGER (TASMAC),
TAMIL NADU STATE MARKETING CORPORATION LIMITED,
RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

... RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus, directing the respondents 3 & 4 to close the 3 TASMAC shops in Shop No. 7012 situated at RF Road, Kadai Theru, Pamban, Ramanathapuram and other two shops Nos. 7013 and 7014 situated at Deivanai Complex, Annai Nagar, Pamban, Ramanathapuram, based on the petitioner representation dated 30.04.2019.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.R.MAHESWARAN, Advocate for MR.C.SUSI KUMAR, Advocate for the petitioner and of MR.A.K.BASKARAPANDIAN, Special Government Pleader for R1 and MR.B.JAMEEL ARASU, Standing Counsel for R2 to R4, the court made the following order:-

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner claims to be a Public Interest Litigant. Aggrieved by the fact of location of three TASMAC shops within the close proximity in Mandapam and that apart, the people who purchased liquor in the said TASMAC shops consumed it within the vicinity and thereby causing untold hardship and nuisance to the general public and to the residents of that locality.

2. The averments made in the writ petition is refuted by the fourth respondent in his counter affidavit, dated 16.02.2019 and it is relevant to extract paragraph No.5 of the counter affidavit, which reads as follows:

"5. I further submit that the present shops are situated with a long distance from the Pamban river bed and only the fishermen living nearby the said area are benefitted by the above shops and hence, there is no illegality or irregularity in locating the said shops. Further there is no sufficient space available to locate any tasmac shops near Pampan or Rameshwaram Islands areas. In fact there are above 1 lakh population are residing out of which 60 percent are hailing from fishermen community only. Further the three shops are situated by following prohibitory distances.

- | | |
|-----------------|---------------------------|
| 1.Shop No.7012, | |
| Highways | situated above 450 metres |
| Jumma Mosque | situated above 150 metres |
| Anthonia church | situated above 750 metres |
| Dawood Mosque | situated above 350 metres |
| 2.Shop No.7013, | |
| Highways | situated above 500 metres |
| Jumma Mosque | situated above 280 metres |
| Anthonia church | situated above 650 metres |
| Dawood Mosque | situated above 270 metres |
| 3.Shop No.7014, | |
| Highways | situated above 500 metres |
| Jumma Mosque | situated above 280 metres |
| Anthonia church | situated above 660 metres |
| Dawood Mosque | situated above 280 metres |

Thus there is no irregularity or illegality in establishing and also there are no violations whatsoever."

3. The learned Standing Counsel appearing for the TASMAC, on instructions, would submit that no licence has been granted to locate bar and the places adjacent to the TASMAC shop are maintained in a very good sanitary condition and there is no nuisance or law and order problem is created by the persons, who buy liquor from the TASMAC shops.

4. However, the learned Counsel appearing for the petitioner would submit that the statement made by the learned Standing Counsel for TASMAC on instructions, is not a correct one, for the reasons that day in and day out, the drunkards used to create nuisance and therefore, the residence of that locality are facing untold hardship and misery and hence prays for appointment of an Advocate Commissioner to cause surprise inspection as to the veracity of the State.

5. In the light of the above facts and circumstances, the Secretary, District Legal Services Authority, Ramanathapuram is directed to cause surprise inspections of TASMAC shops bearing Shop Nos.7012, 7013 and 7014, situated at RF Road, Kadai Theru, Pamban, Ramanathapuram District and in the event of any law and order problem, he is at liberty to avail police security. The Secretary, District Legal Services Authority, Ramanathapuram, after causing surprise inspections, shall submit a report along with documents and photographs for perusal of this Court.

6. Call on 01.07.2019.

sd/-
11/06/2019

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

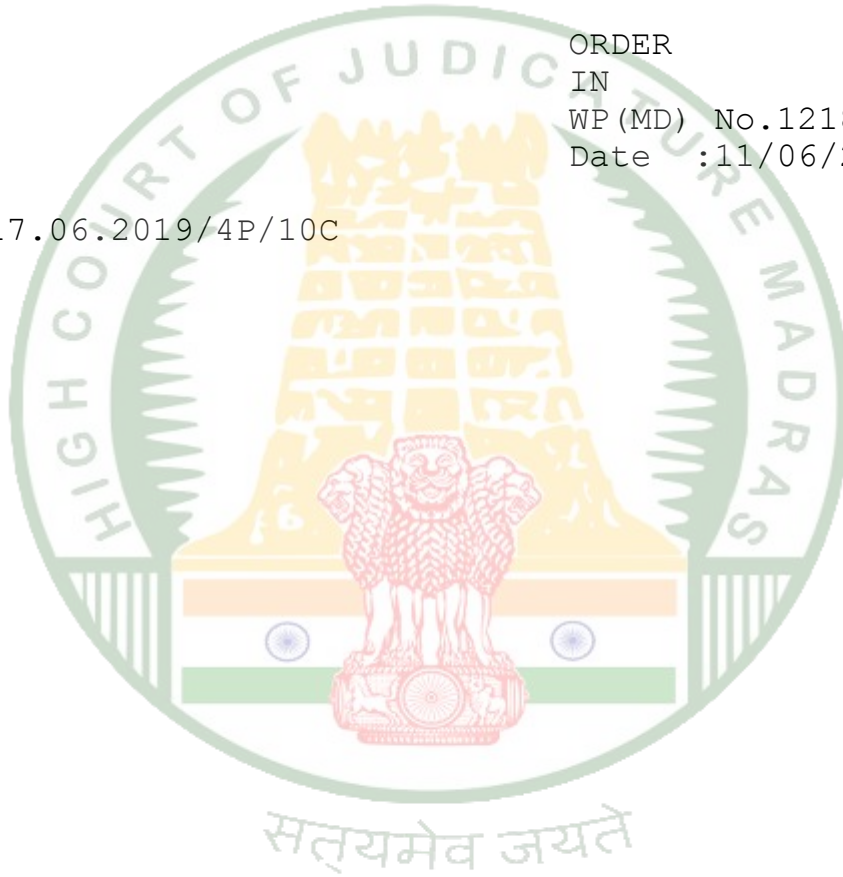
- 1 THE PRINCIPAL SECRETARY TO GOVERNMENT,
HOME PROHIBITION AND EXCISE DEPARTMENT,
SECRETARIAT, FORT ST.GEORGE, CHENNAI-09.
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RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

COPY TO:

- 1 THE SECRETARY,
DISTRICT LEGAL SERVICES AUTHORITY,
RAMANATHAPURAM.
- 2 THE INSPECTOR OF POLICE,
MANDAPAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
- 3 THE SUPERINTENDENT OF POLICE,
RAMANATHAPURAM DISTRICT.

ORDER
IN
WP (MD) No.12185 of 2019
Date :11/06/2019

JM/JC/SAR 2/17.06.2019/4P/10C



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