



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P.(MD)No.5139 of 2019

and

W.M.P.(MD) no.4128 of 2019

(Through Video Conferencing)

A.Mangala Raj

... Petitioner

Vs.

1.The District Collector,
Tirunelveli
Tirunelveli District.

2.The Manager,
'TASMAC', Tirunelveli District,
Munneerpallam
Tirunelveli.

3.The Tahsildar,
Kadayanallur Taluk
Kadayanallur
Tirunelveli District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to forbear the respondents from running the TASMAC shop No.10683 with bar in D.No.4/144 in Mullikulampanchayat in Thalaivankottai Village in Kadayanallur Taluk in Tirunelveli District.

For Petitioner : Mr.F.X.Eugene
For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

ORDER

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

The present writ petition has been filed forbearing the
<https://hcservices.ecourts.gov.in/hcservices/>



respondents from running a TASMAL shop No.10683 in D.No.4/144 in Mullikulam panchayat, Thalaivankottai Village, Kadayanallur Taluk, Tirunelveli District.

2. Following is the statement made in the counter affidavit filed:

"4. I submit that at the outset I submit that originally the TASMAL shop bearing No.10683 was already functioning at 1/1 Mela Ratha Veedhi, Chinthamani Village, Kadayanallur Taluk, Tirunelveli District since last so many years. However due to the Apex Court order for establishing the tasmal shops by maintaining certain distances on the NH roads etc., the said shop has been closed by this respondent. However thereafter by conducting special inspection as per the rules, as well as the judgment of the Apex Court, the present place was identified as a suitable place ie. Door No.4/144B comprised in S.No.113/17 situated at Ward No.4, Pambukoil Main Road, Mullikulam Panchayat, Thalaivankottai village, Tirunelveli District. Thereafter a proposal was sent to the first respondent/District Collector for approval of the said place to locate the said shop on 30.01.2019. The first respondent after following the due process of inspection by his officials and having satisfied that all the procedures were adopted by this respondent, has approved the said proposal to locate the said shop at the above said address vide his proceedings dated 30.01.2019. Accordingly the said shop was opened on 13.02.2019.

5. It is submitted and reiterated that the area where the above said shop has been opened is a dry vacant space and unlevelled land. Further, above said shop was opened as stated above by following all the requirements as per Tamilnadu Retail Vending (shops and Bar) Rules 2003 and also various orders passed by the Hon'ble Apex Court as well as our Hon'ble High Court, and after strict compliance of various rules, the said shop was opened. There is no temple, hospital or schools near the above said shop.

6. It is submitted that the above writ petition is filed with oblique and personal motives and gains without any truth or valid reasons. There is no public interest involved at all and the same is filed only for public interest on the ground of existence of burial ground which is not a legal ground."

3. From the above, we do not find any illegality involved with respect to the distance rules. The petitioner has also not produced any evidence to substantiate the alleged violation. This Court



cannot conduct a roving enquiry in this aspect. Accordingly, the writ petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
Tirunelveli
Tirunelveli District.
- 2.The Manager,
TASMAC, Tirunelveli District,
Munneerpallam
Tirunelveli.
- 3.The Tahsildar,
Kadayanallur Taluk
Kadayanallur
Tirunelveli District.

+1CC to THE SPECIAL GOVERNMENT PLEADER(SR-10170[F] dated 10/03/2021)

+1 CC to Mr.F.X.EUGENE, Advocate (SR-9998[F] dated 10/03/2021)

Order made in
W.P. (MD)No.5139 of 2019 and
W.M.P. (MD) no.4128 of 2019
Dated: 09.03.2021

MJ(CO)
SRS (22/03/2021) 3P : 6C