



WEB COPY

W.P(MD)No.19816 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Reserved on : 05.07.2021
Pronounced on : 01.09.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.19816 of 2020

and

WMP(MD)No.16511 of 2020

Maheswari

... Petitioner

vs.

1)The Managing Director,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Chennai.

2)The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Madurai District.

3)The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Madurai South,
Madurai District.

4)Ochammal

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd and 3rd respondents to vacate the TASMAC SHOP No.5500 from the petitioner's property in Survey No.82/3B1A1 to the extent of 0- 8.32 Hectare-Ares in classification of Pujai Land in Patta No.1471 on the file of the Kodikulam Revenue Village, Usilampatti Taluk, Madurai District, on the basis of the petitioner's representation dated 05.09.2020.

For Petitioner : Mr.R.Udhayakumar

For R1 to R3 : Mr.H.Arumugam

For R4 : Mr.R.Gowrishankar

ORDER

The petitioner has filed this writ petition for issuance of a Writ of Mandamus, directing the 2nd and 3rd respondents to vacate the TASMAC Shop No.5500 from the petitioner's property in Survey No.82/3B1A1 to the extent of 0- 8.32 Hectare-Ares in classification

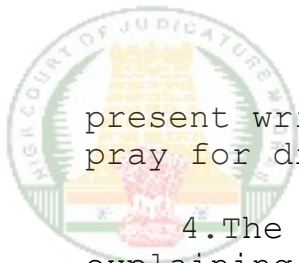
<https://hcservices.ecourts.gov.in/hcservices/>



of Pujai Land in Patta No.1471 on the file of Kodikulam Revenue Village, Usilampatti Taluk, Madurai District, on the basis of the petitioner's representation dated 05.09.2020.

2.The learned counsel for the petitioner would state that the petitioner's husband is the lawful owner of the abovesaid property and patta has been issued in his favour in Patta No.699. He executed a settlement deed in favour of his wife/petitioner in respect of the above property in Document No.1385/2020 and pursuant thereto, Patta No.1471 was issued in favour of the petitioner. While so, on 03.09.2020 about 02.00 p.m., when the petitioner and her husband visited the above property, they found that a TASMAC Shop No.5500 is running therein by the respondents 2 and 3 and came to know that the 4th respondent who is the adjacent land owner, is receiving the monthly rent from the respondents 2 and 3. Thus, the petitioner made a representation dated 03.09.2020 to the respondents 2 and 3 seeking to vacate the above TASMAC shop, but no action was taken. Again, on 05.09.2020, the petitioner made another representation and the 3rd respondent addressed a letter dated 21.09.2020 to the petitioner to submit revenue records of the above property stands in the petitioner's name. According to the petitioner, even after submission of required documents, the 3rd respondent did not take any action. While so, in order to avoid recovery of the rental amount and advance amount, the 4th respondent filed O.S.No.246 of 2020 before the Sub Court, Usilampatti, seeking declaration and permanent injunction in respect of the subject property and to declare the settlement deed in Document No.1385 of 2020 as null and void. The civil court has not granted any stay or injunction and has ordered only notice to the petitioner. Even then, till date the 4th respondent is receiving the rental amount from the respondents 2 and 3 till date. Hence, this writ petition.

3.The official respondents 1 to 3 have filed counter affidavit. The learned standing counsel for the respondents 1 to 3 would state that while the suit filed by the 4th respondent in O.S.No.246 of 2020 is pending, the petitioner cannot circumvent the process of law by approaching this Court indirectly seeking the relief of recovery of possession. He would further state that the above TASMAC shop was opened in the year 2011 after getting order from the District Collector, Madurai, as per Rule 9 of the Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003. According to the official respondents, the 4th respondent is the absolute owner of the property and she submitted title deed and patta and the allegation of the petitioner that she is the owner of the subject property and the 4th respondent is illegally allowed her property for running of TASMAC shop and is receiving rental amount, cannot be canvassed before this Court. He would also state that the 4th respondent had executed a registered settlement deed in favour of her son namely, Perumal and he has also consented for continuation of lease and the rent is also paid to him. Further when the civil suit is pending, it is for the



present writ petition filed is impermissible in law. Thus, he would pray for dismissal of the writ petition.

4.The 4th respondent has also filed a detailed counter affidavit explaining her acquisition and title to the subject property and would state that the petitioner who is not the lawful owner of the subject property, is not entitled to maintain the writ petition which is devoid of merits and would pray for its dismissal.

5.Heard the learned counsel for the petitioner as well as the respondents.

6.Perusal of record shows that there is a title dispute with regard to the subject property in which TASMACHOP No.5500 is running. While the petitioner claims title over the subject property, the 4th respondent is also making rival claim and would state that she has filed a suit before the Sub Court, Usilampatti, in O.S.No.246 of 2020 seeking declaration and permanent injunction in respect of the subject property. According to the official respondents 1 to 3, the 4th respondent is the absolute owner of the subject property and she executed registered settlement deed in favour of her son Perumal who is now receiving the rental amount from the respondents 2 and 3 for the running of the above TASMACHOP shop in the subject property.

7.Be that as it may, since the title dispute is involved in respect of the subject property, it cannot be decided by this Court under the writ jurisdiction and the appropriate forum which is the civil court where the civil suit is pending, can only adjudicate the title dispute. Thus, the writ petition is dismissed leaving it open to the petitioner to raise all her contentions in the pending suit and work out her remedy.

8.With the above observation, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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To

1)The Managing Director,
Tamil Nadu State Marketing Corporation Ltd., (TASMACHOP),
Chennai.

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2)The Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Madurai District.

3)The District Manager,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Madurai South,
Madurai District.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-27936[F] dated 02/09/2021)

W.P(MD)No.19816 of 2020

DATED : 01.09.2021

RK (09.09.2021) 4P 5C