



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.3295 of 2022
and
W.M.P.No.3433 of 2022

R.Selvambal

...Petitioner

Vs.

1.The District Manager,
TASMAC Limited,
Santhiyur, S.Aattaiyampatti (Post),
Salem - 636 203.

2.N.Karthikeyan

3.R.Raja,
District Manager,
TASMAC, Salem.

...Respondents

[R3 suo motu impleaded vide order dated 22.02.2022 made in W.P.No.3295 of 2022]

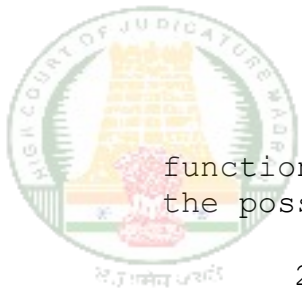
Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, quash the notice issued by the first respondent, vide Na.Ka.No.48/2022/A5/CV dated 12.01.2022 and directing the first respondent to vacate the TASMAC Shop No.7466 functioning in S.No.50/1 and 50/2 of Ively village and hand over the possession to the petitioner.

For Petitioner : Mr.V.Vijayakumar

For R1 : Mr.K.Sathish Kumar
Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, to quash the notice issued by the first respondent, vide Na.Ka.No.48/2022/A5/CV dated 12.01.2022 and to direct the first respondent to vacate the TASMAC Shop No.7466



functioning in S.No.50/1 and 50/2 of Ively village and hand over the possession to the petitioner.

2. With regard to the land, in which, the TASMAL retail vending shop No.7466, is functioning from 01.04.2017, there has been a dispute between the petitioner and the 2nd respondent one N.Karthikeyan.

3. The petitioner claimed to be the owner of the property and according to the 2nd respondent, he purchased the property from a third party and on that ground, he seems to have raised an objection or claim before the 1st respondent and in order to enquire this, as to who is the owner of the property, the 1st respondent on 12.01.2022 issued a memo directing the petitioner to appear before the 1st respondent within one week time. Aggrieved over the same, the present writ petition has been filed before this Court.

4. On considering the content of the said impugned communication at the stage of the admission of this writ petition, this Court was of the prima facie view that the decision to be made with regard to the ownership of the land is concerned, does not fall under the jurisdiction of the 1st respondent, who is a District Manager of the TASMAL, therefore, in order to seek explanation from him, the 1st respondent by his name has been impleaded suo mottu as the 3rd respondent.

5. At that stage, the case was adjourned and it has come up for further hearing today, where Mr.K.Sathish Kumar, learned Standing Counsel appearing for the first respondent has submitted that, a counter affidavit has been filed, where, in paragraph no.7, it has been stated that in view of the dispute with regard to the ownership of the land in question, where the shop is located, the TASMAL needs four months time to vacate the shop, by stating this learned counsel appearing for the TASMAL has relied upon paragraph 7 of the counter affidavit, which reads thus:

"7. It is submitted that since the land in which the shop is functioning being ownership dispute and this respondent decided to vacate the premises and to relocate the shop in suitable place in compliance of Rule 8(1) of Tamil Nadu Liquor Retail Vending (Shops and Bars) Rule, 2003 and for which this respondent required at least 4 months time to find a suitable place for relocation. This respondent is ready to deposit the rent with arrears to the petitioner on production of death



WEB COPY

certificate, legal heir certificates and NOC from the other legal heir. For the above said reasons it is clear that this Respondent discharged his duty only on official capacity and issued the notice only for the reasons to pay the rent."

6. I have considered the said stand taken by the TASMAC, which has been reflected in the counter, as quoted herein above, where they seek only four months time to vacate the shop from the land belongs to the petitioner.

7. In view of the said stand taken by the Respondent TASMAC, the impugned memo dated 12.01.2022 does not have any further repercussions and therefore, they need not be acted upon. Recording the said stand taken by the respondent TASMAC in paragraph 7 of the counter affidavit, four months time is granted to vacate the shop in question, by relocating the same after finding a suitable alternative place.

8. Insofar as the dispute raised by the 2nd respondent is concerned, it is open to the 2nd respondent to approach the concerned Civil Court with regard to the ownership of the property in the manner known to law.

9. With these observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sp/mp
To

The District Manager,
TASMAC Limited,
Santhiyur, S.Aattaiyampatti (Post),
Salem - 636 203.

+1 CC to Mr.V.Vijayakumar, Advocate sr 15313.

W.P.No.3295 of 2022

AD(CO)
SP(22/03/2022)