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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

WRIT PETITION NO.3978 OF 2022

AND

W.M.P.NO.4123 OF 2022

V.Malaiarasu

...Petitioner

Vs

1.The Regional Manager,
Tasmac,
Coimbatore.

2.The District Manager,
Tasmac,
Tiruppur.

3.The State Rep. By Inspector of Police,
Palladam Police Station,
Tiruppur.

4.The State Rep. By Inspector of Police,
Tamilnadu Prohibition Enforcement Wings-PEW
Tiruppur.

5.Balamani

6.Arunkumar

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent to close the illegal Tasmac bar in Tasmac shop No.2264, Naranapuram Village, Sedapalayam Road, Palladam and close the Tasmac shop or shift to any other place.

For Petitioner : Mr.J.Franklin

For Respondents : Mr.K.Sathish Kumar,
Standing Counsel[R1 & R2]

: Mr.S.Ravichandran,
Additional Govt. Pleader[R3 & R4]



O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the 2nd respondent to close the illegal Tasmac bar in Tasmac shop No.2264, Naranapuram Village, Sedapalayam Road, Palladam or shift to any other place.

2. The petitioner has taken a land at Naranapuram Village, Sedapalayam Road, Tiruppur District from the 5th respondent. The lease period is for originally five years, subsequently it has been extended upto 2026 in favour of the petitioner, who is continue to be the lessee for the said land.

3. In the said land, already he entered into an agreement with the Tasmac to run Tasmac retail vending shop No.2264 where Tasmac shop has been running till date.

4. Where, initially a license was given to run the bar to one Jaganathan during the year 2019 - 2021 and subsequently, the license period was over to run the bar, thereafter, in order to identify the new licensee to run the bar, tender was called for and the 6th respondent was the highest bidder, who was also given an No Objection Certificate from the 5th respondent being the owner of the land in favour of 6th respondent to get the bar license.

5. In the meanwhile, the petitioner being the lessee of the entire land including the land, which is going to be utilized for the bar, for which, 6th respondent claimed to be the highest bidder, had raised an objection before the Tasmac not to give the license to 6th respondent.

6. At this juncture, writ petition has been filed with the aforesaid prayer.

7. Heard Mr.K.Sathish Kumar, learned Standing Counsel appearing for respondents 1 and 2 and Mr.S.Ramachandran, learned Additional Government Pleader appearing for respondents 3 and 4. Counter affidavit has been filed on behalf of the second respondent, where interalia, the second respondent has stated the following:

"4. It is respectfully submitted that the petitioner is a lessee in respect of the above said property and the 5th respondent herein is a lessor who let out his property to the petitioner from 31.03.2017. The petitioner let out the said property to this respondent for running a TASMAL shop and bar. During 2019-2021 the bar license was granted to one N.Jaganathan. Subsequently new tender has been called for running the tasmac bar,



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the tender was conducted and the 6th respondent herein is the highest bidder and this respondent insisted the said Arunkumar/6th respondent to produce NOC from the concerned landlord, for the same he produced the NOC given by the 5th respondent in favour of him."

8. Learned counsel for Tasmac would further submit that, even though the 6th respondent was identified as a highest bidder to run the bar, so far no bar license has been given in his favour therefore, the allegation made in this regard by the petitioner that, initially the 6th respondent was permitted to run the bar, is untrue.

9. Learned Standing Counsel for Tasmac, on instructions, would further submit that, Tasmac decided to run the very retail shop only for next four months, within which period, they would find out some alternative place, where they would relocate the shop. For the said four months period or till they running the shop within the four months period, the Tasmac is ready and willing to pay the rent only to the petitioner being the lessee of the land.

10. Therefore, insofar as the petitioner plea is concerned, according to the learned Standing Counsel for Tasmac, all his grievances are addressed, hence the writ petition by taking into account these factors may be disposed of, he contended.

11. However, learned counsel appearing for petitioner would submit that despite the stand having been taken by the Tasmac, the 6th respondent continue to run the bar, without license, which means an illegal running of the bar is undertaken with a convenience of the Tasmac authorities. Therefore, it should be checked by the 4th respondent, who is having the jurisdiction as Police Inspector by having a surprise check and if it is found any illegal bar is run by the 6th respondent, action shall be taken in accordance with law.

12. I have considered the rival submissions made by both the parties and have perused the materials placed before this Court.

13. Insofar as running the Tasmac in shop No.2264 is concerned, now the stand of the Tasmac is that, within the maximum period of four months, they will find out an alternative place and relocate the same. Till the relocation they will continue to pay the rent only to the petitioner. The said statement made on behalf of the Tasmac is hereby recorded.

14. Insofar as the allegation made by the petitioner against the Tasmac and the 6th respondent that, without having any



license being issued to the 6th respondent, he has been running the bar illegally is concerned, the 4th respondent can be directed to inspect the premises and find out the truth and accordingly, he can take action in accordance with law. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

- That the respondent Tasmac shall find out an alternative place within four months period as they undertaken before this Court and within the said period, so long as they run the shop in the existing place, where the petitioner is a lessee, the monthly rent shall be given to the lessee.
- Once they found an alternative place and relocate the shop, the petitioner cannot have any grievance that, the Tasmac should continue to run the shop in his leased out premises.
- Insofar as the allegation with regard to the alleged illegal running of bar by the 6th respondent is concerned, the 4th respondent is hereby directed to have a surprise checkup and find out the truth as to whether the allegation made by the petitioner against the 6th respondent Tasmac is correct and if so, action can be taken in accordance with law for allegedly running the bar by the 6th respondent.
- Even at the time of making the surprise checkup, if the 4th respondent does not find any illegality on the part of the 6th respondent with a alleged convenience of the Tasmac authority, it is open to the 4th respondent to have a continuous vigil over the said location as long as the said Tasmac shop is located in the present location for the maximum period of four months.

15. With these observations and directions, this writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

mp/anu

To

1.The Regional Manager,
Tasmac,
Coimbatore.

2.The District Manager,
Tasmac,
Tiruppur.



3.The Inspector of Police,
Palladam Police Station,
Tiruppur.

4.The Inspector of Police,
Tamilnadu Prohibition Enforcement Wings-PEW
Tiruppur.

+1cc to Mr.J.Franklin, Advocate Sr.No.26066

W.P.No.3978 of 2022

GPL (CO)
RVM(17/06/2022)