

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.16848 of 2022

P.Rajendiran

...Petitioner

Vs

1.The Government of Tamil Nadu
Rep by Additional Chief Secretary
Prohibition and Excise Department
Secretariat, Chennai 09

2.The District Collector,
Collectorate Office
Kallakurichi District 606 202

3.The Tasmac Manager
Villupuram Zone
Villupuram 606 202

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents from establishing a liquor shop and bar on the land situate in Madhavacheri to Kachirapalayam Road Chinnasalem Taluk Kallakurichi District by considering the petitioner's representation dated 02.06.2022.

For the Petitioner : Mr.P.Valliyappan
for M/s.PV Law Associates

For the Respondents : Mr.P.Muthukumar,
State Government Pleader,
assisted by Mr.Alagu Gowtham,
Government Advocate

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The writ petition has been filed to seek a direction on the respondents to forebear them from establishing a liquor shop and bar on the land situate in Madhavacheri to Kachirapalayam Road, Chinnasalem Taluk, Kallakurici District, by considering the petitioner's representation dated 02.06.2022.

2. The remedy of appeal is available to the petitioner, if according to the petitioner, the licence to the Tasmac shop has been issued in violation of rules. But without availing the remedy aforesaid, where factual issue about the location of the shop can also be determined, i.e. as to whether it is licensed in violation of the rules or not, the present writ petition has been preferred. The extraordinary remedy under the Article 226 of the Constitution of India would not be open for determining the factual issues, which includes the location of Tasmac shop and as to whether it is in violation of rules or not. All these factual issues can easily be determined in the appeal. Therefore, we do not the writ petition of any exceptional nature where it can be maintained without taking the remedy of appeal. It is more so while there is no pleading in the writ petition to show that the remedy of appeal would not be efficacious.

3. Thus, the writ petition is dismissed, however, with liberty to the petitioner to avail the remedy of appeal, if he so chooses. There will be no order as to costs. C.M.P.No.16049 of 2022 is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

tar

To:

1.The Additional Chief Secretary
Prohibition and Excise Department
Secretariat, Chennai 09

2.The District Collector,
Collectorate Office
Kallakurichi District 606 202

3.The Tasmac Manager
Villupuram Zone
Villupuram 606 202

+1cc to Mr.P.Valliyappan, Advocate SR. No. 42834
+1cc to Government Pleader SR. No. 42886

W.P.No.16848 of 2022

SJ (CO)
PR (18/07/2022)