



W.A.No.1597 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN  
AND  
THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.A.No.1597 of 2022  
and  
C.M.P.No.17547 of 2017

R.Arumugam

...Appellant

Versus

1. The Excise Commissioner,  
Department of Excise,  
Government of Puducherry,  
Puducherry.

2. The Deputy Commissioner (Excise)  
Office of the Deputy Commissioner (Excise),  
Government of Puducherry,  
Karaikal.

3. Sri Sithi Kaliyamman Alayam,  
Rep. by its Joint Secretary,  
R.Murugavel,  
No.1, Usman Colony,  
Thirunallar Main Road,  
Patchoore, Karaikal.

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent Act against the  
order of the learned single Judge of this Court in W.P.No.20715 of 2011.



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W.A.No.1597 of 2017

For Appellant : Mr.T.Sai Bharath  
For Respondents : Mr.V.Balamurugane,  
Govt.Pleader (Pondicherry) for R1 and R2  
Mr.R.Natarajan for R3

### **J U D G M E N T**

The present appeal has been filed challenging the order of the learned single Judge dated 06.11.2017 made in W.P.No.20715 of 2011.

2. The brief facts of the case is that a Bar has been put up in a prohibited area and the learned Single Judge has permitted the appellant/petitioner to relocate the liquor shop to a different location, failing which, the 2nd respondent shall suspend the license of the appellant/petitioner.

3. During the pendency of the appeal, the appellant has shifted the bar which appears to just opposite to the temple prohibited place. The respondents therefore have taken action and did not permit the appellant to open the shop. A show cause notice dated 25.04.2022 has been issued by the 2nd respondent, wherein, the appellant has been directed to show cause for his action along with reasons for not informing the office of the Deputy Commissioner Excise, Karaikal, about the direction of this Court given in the open court. The show cause notice further states that appropriate action will be taken if proper reply is not received.



W.A.No.1597 of 2017

4. For the sake of convenience, the show cause notice dated 25.04.2022 is extracted hereunder.

GOVERNMENT OF PUDUCHERRY  
OFFICE OF THE DEPUTY COMMISSIONER (EXCISE)

No.7432/DCE/C2/202202023

Karaikal.dt.25.04.2022

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**MEMORANDUM**

Sub: DC(E)-KKL-WANo.1597 of 2017 - Shifting of FL-2 Licensed

Premises of M/s. Breeze Bar, Karaikal-Report-Submitted-Reg.

Ref: Hon'ble Madras High Court order's dt.24/02/2022 in

W.A.No.1597 of 2017

In compliance with the direction dt.24.02.2022 of the Hon'ble High Court of Madras in W.A.No.1597 of 2017 that, "Such being the factual scenario, this court, without going into the merits of the case, directs the authority concerned to consider those pending applications, on merits and in accordance with law of course, after providing due opportunity of hearing to all the parties including the temple authorities. Such an exercise shall be completed within a period of four weeks and a compliance report be filed before this Court", a detailed enquiry was conducted, opportunity of hearing afforded to all parties, and subsequently, after obtaining approval of the Excise Department, permission of the Excise Department was conveyed to shift the License from Ward.E, Block:1, T.S.No.6/1, Thirunallar Road, Karaikal to Ward.E. Block:1, T.S.No.6/1/4/2, R.S.No.6/1 pt of 27 Dharmapuram Revenue Village, Karaikal.

In this connection, the office of the Government Pleader, Government of Puducherry informed (through phone call at 1 PM on 25.04.2022), that personal appearance of the undersigned on 28.04.2022 has been directed by the Hon'ble High Court of Madras. It was informed by the Pleader that in the previous hearing on 21.04.2022, the Hon'ble Judge had made some observations on the



WEB COPY



W.A.No.1597 of 2017

shifting permission following which your Counsel had submitted before the Hon'ble Court that the shop would be closed by the licensee himself on the same day, i.e., on 21.04.2022. However, you have neither closed the shop, nor have you communicated to the undersigned the directions given to you by the Hon'ble Court, thereby causing embarrassment to the Government.

You are hereby directed to show cause for your actions, along with reasons for not informing the Office of the Deputy Commissioner Excise, Karaikal, about the directions given in Open Court by the Hon'ble Court. Appropriate legal action will be initiated under the excise Act & Rules if satisfactory reply is not received. Your reply shall reach this office by 12 Noon of 26.04.2022.

sd/-

(M.ADHARSH)  
DEPTY COMMISSIONER (EXCISE)  
KARAIKAL

To  
M/s.Breeze Bar, Karaikal.

Copy to:

1. Government Pleader-For kind information.
2. Excise Officer- with instructions to immediately seal the shop until the matter is decided by the Hon'ble High Court of Madras. Compliance is to be reported by 5 pm., 25.04.2022.

5. The appellant has also filed a reply to the show cause notice on 26.04.2022. Since the appellant has already shifted the shop, the present writ appeal has become infructuous. If the alternate place of the shop is also in a prohibited area, it is open to the authorities to take action against the appellant and prevent the appellant from running the shop and also withdraw the license granted. There is also no final determination arrived, in



W.A.No.1597 of 2017

terms of the memorandum dated 25.04.2022.

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6. We do not therefore want to make any observation on the merits of the case as the order of the learned single Judge has already worked out the remedy and the writ appeal has become infructuous. We make it very clear that the respondents shall pass orders on the reply given by the appellant to the show cause notice on merits and in accordance with law. The appellant, cannot as a matter of right, insist that the shop should be opened if it is in the prohibited area or at a prohibited distance.

7. Considering the fact that the appellant was already been granted license and was subsequently asked to close the shop, we direct the respondents to pass appropriate orders to the reply given of the appellant dated 26.04.2022 within a period of 15 days from the date of receipt of a copy of this order. In case, the appellant is still aggrieved by such order to be passed, it is open to the appellant to work out his remedy in the manner known to law.

8. The Writ Appeal is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

(S.V.N., J.) (C.S.N., J.)  
20.10.2022

Internet : Yes



W.A.No.1597 of 2017

Index : Yes / No  
vsi

S.VAIDYANATHAN,J.  
AND  
C.SARAVANAN,J.

vsi

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