



W.A.No.2464 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

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The District Manager
Tasmac Ltd.,
Bhavani Main Road
Sooriyampalayam (Post)
Erode

.. Appellant

v.

1. R.Kulanthaivel
2. The District Collector
Erode District
Erode
3. Revenue Divisional Officer
Erode
Erode District
4. The Inspector of Police
Modakurichi Police Station



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Erode District
5. L.C.Arumugam

.. Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order dated 12.10.2022 passed in W.P.No.20670 of 2022.

For Appellant :: Mr.M.Sekar
Standing Counsel

For Respondents :: Mr.A.Kumaraguru for R1
Mrs.R.Anitha
Special Government Pleader
for R2 to R4

JUDGMENT

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

This writ appeal has been filed by the District Manager, Tasmac Limited, Erode aggrieved by the impugned order dated 12.10.2022 passed in Writ Petition No.20670 of 2022, wherein the learned single Judge, disagreeing with the reasons given by the District Collector, Erode for running of the Tasmac wine Shop No.3855 in the R.S.No.104/4 situated in Lakkapuram Village, Modakurichi Taluk, Erode District with instructions to the District Manager, Tasmac Limited, Erode, the appellant herein to advise



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the shop employees to prevent the consumers throwing empty bottles in the agricultural land and also to avoid causing hindrance to the public, has allowed the writ petition quashing the order dated 13.07.2022 impugned therein.

2. Mr.M.Sekar, learned Standing Counsel appearing for the appellant, assailing the impugned order, pleaded that as the shop in question has been attached with bar, the question of littering the agricultural land with the waste of plastic items and empty bottles, as alleged by the writ petitioner before the learned single Judge, is far from acceptance. He further submitted that when the District Collector has taken into account the difficulties faced by the writ petitioner, who claims to be an agriculturist, as well as the other land owners and has also instructed the appellant/District Manager to advise his subordinate staff to keep the surrounding area free from any complaint, the learned single Judge has overlooked the same and finally ordered the closure of the subject shop from the place in question. The learned Standing Counsel also argued that as against the order challenged before the writ



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Court, an appeal has been provided under the amended Rule 9A of the Tamil Nadu Liquor Retail Vending (in Shops & Bars) Rules, 2003, which says that any person aggrieved against an order passed by the Collector either under sub-rule (3) of Rule 8 or under Rule 9 may prefer an appeal before the Commissioner of Prohibition and Excise within a period of 30 days from the date of receipt of the order. As the first respondent/writ petitioner has not preferred any appeal under the amended Rule 9A of the Tamil Nadu Liquor Retail Vending (in Shops & Bars) Rules, 2003, the impugned order has to go, he pleaded.

3. We have also heard the learned counsel appearing for the first respondent/writ petitioner and also the learned Special Government Pleader appearing for the respondents 2 to 4.

4. It is not in dispute that the first respondent/writ petitioner filed the Writ Petition No.20670 of 2022 challenging the order dated 13.07.2022 passed by the District Collector, Erode claiming that he is the owner of



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agricultural land situated in LBB Punchai Lakkapuram Village in R.S.No.103/1 vide Patta No.24 and the shop in question is situated in the adjacent land in R.S.No.104/4 vide Patta No.852. Paragraph-4 of the affidavit filed in support of the writ petition also shows that the shop in question was started 4 years before amidst public protest, since the liquor shop was started in agricultural land which would affect the agricultural activities in the surrounding 50 acres of land. The writ petitioner also pleaded that the customers of wine shop pollute the atmosphere, particularly the soil by throwing the water packets, bottles which primarily contain debris of plastic. Moreover, many customers, after purchasing the liquor bottles and using the agricultural lands as an attached bar, pollute the atmosphere by littering the lands with empty bottles, plastic waste etc., and create a big negative influence in the mind of farmers. Therefore, the learned single Judge, not accepting the justification given by the District Collector, Erode for running the liquor shop in the place in question by instructing the District Manager of the Tasmac outlet to ensure keeping the agricultural lands from the litter of empty bottles, plastic waste etc., quashed



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the same, as the order dated 13.07.2022 has refused to relocate the shop from the present place, where the agricultural activities are going on.

5. Moreover, we find that the first respondent/writ petitioner has visited this Court twice. Firstly, when the writ petitioner gave a representation dated 28.02.2022 requesting the District Collector, Erode to relocate the Tasmac shop situated in R.S.No.104/4 of Lakkapuram Village to any other place, it was kept pending for a long time. Therefore, he was compelled to visit this Court by filing Writ Petition No.7020 of 2022. Although there was a direction given, for the reasons best known to the District Collector, had not taken care of the grievance. Therefore, the writ petitioner was constrained to initiate the second round of litigation, which ultimately ended with the order dated 13.07.2022 passed by the District Collector rejecting his request, that was put to challenge in the Writ Petition No.20670 of 2022. Therefore, we do not find any justification to direct the writ petitioner to once again go back to the appellate authority invoking Rule 9A of the Tamil Nadu Liquor Retail Vending (in Shops & Bars) Rules,



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2003, as it would lead to the third round of litigation. Further, as rightly noted by the learned single Judge, as on date, the land upon which the shop in question has been developed is classified as agricultural land, for the development of which no consent of the local authority and Director have been obtained as required under Section 47A of the Tamil Nadu Town and Country Planning Act, 1971.

6. In the light of the peculiar facts and circumstances involved in this case, as aforementioned, we do not find any merit to interfere with the impugned order passed by the learned single Judge. Accordingly, the writ appeal fails and it is dismissed. Consequently, C.M.P.No.19191 of 2022 is also dismissed. However, there is no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.K.K.,J.)

Index : yes/no

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