



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2022

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

W.P (MD) No.2039 of 2022

and

W.M.P. (MD) No.1751 of 2022

WEB COPY

B.Balachandran

... Petitioner

-Vs-

1.The District Collector,
Trichy District, Trichy.

2.The District Manager,
Tamil Nadu State Marketing Corporation, (TASMAC),
Thuvakudi, Trichy-15.

3.The Revenue Divisional Officer,
Musiri, Trichy District.

4. M.Akila

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus forbearing the respondents from in any way vacating and shifting the TASMAC Shop No: 10357 from petitioner's building situated in Survey No: 61/2A1B1 of Musiri West Village, Musiri Taluk, Trichy District without due process of law.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mr.M.Lingadurai,

Special Govt. Pleader for R1 & R3

Mr. S.Ramakrishnan
for Mr. B.Jameel Arasu,
Standing Counsel for R2

O R D E R

This order will now dispose of the captioned main writ petition.

2. Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 02.02.2022 which reads as follows:

'Mr.N.Anandakumar, learned Counsel for writ petitioner, Mr.M.Lingadurai, learned Special Government Pleader who has accepted notice on behalf of respondents 1 & 3 and Mr.B.Jameel Arasu, learned Standing Counsel for TASMAC who has accepted notice on behalf of second respondent are before this Court. To



be noted, the fourth respondent is a private respondent and she is sister-in-law of writ petitioner [writ petitioner's brother late Maheshwaran's wife].

2.The short point is a TASMAL shop being TASMAL Shop No.10357 is situate in a building situate in land comprised in Survey No.61/2A1B1 in Musiri West Village, Musiri Taluk, Trichy District [hereinafter 'said shop' for the sake of convenience and clarity]. To be noted, this Court is informed that said shop is retail liquor vending outlet.

3.Said shop was originally jointly owned by writ petitioner, his brother late Maheshwaran and they let out said shop to TASMAL for running said shop. Thereafter writ petitioner's brother Maheshwaran died, post demise, a partition suit in O.S.No.203 of 2019 on the file of III Additional District Judge's Court, Trichy, has been filed by fourth respondent along with her minor daughter arraying the writ petitioner and writ petitioner's mother [Rani] as two defendants. This is effectively a partition suit inter alia with prayers for declaration that release deed as null and void. It is not necessary to delve further into those aspects of the matter. Suffice to say that in this suit there are six items of properties and said shop is part of Item No.4 in the plaint schedule properties.

4.To be noted there is also some disputation regarding alienation of Item No.4 of plaint schedule property.

5.Suffice to say that the fourth respondent has sent a representation to the first respondent [District Collector] dated 22.11.2021 requesting for said shop to be vacated. Thereafter the first respondent has processed the application.

6.Before proceeding further, it is to be noted that lease of such TASMAL shops are governed by Tamil Nadu Liquor Retail Vending (In Shops and Bars) Rules, 2003 being a piece of subordinate legislation made under rule making power under Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) [hereinafter 'said Rules' and 'said Act' for the sake of convenience and clarity]. In the said Rules 'Collector' is defined in Rule 2(f), 'Shop' is defined in Rule 2(r), 'Location of Shop' is set out in Rule 8 and most importantly Rule 9 deals with 'Shifting of Shop' and the same reads as follows:

'9.Shifting of Shop.- There shall be no change in the location of shops except with the previous permission of the Collector.'

7.In the aforesaid circumstances, let me go back



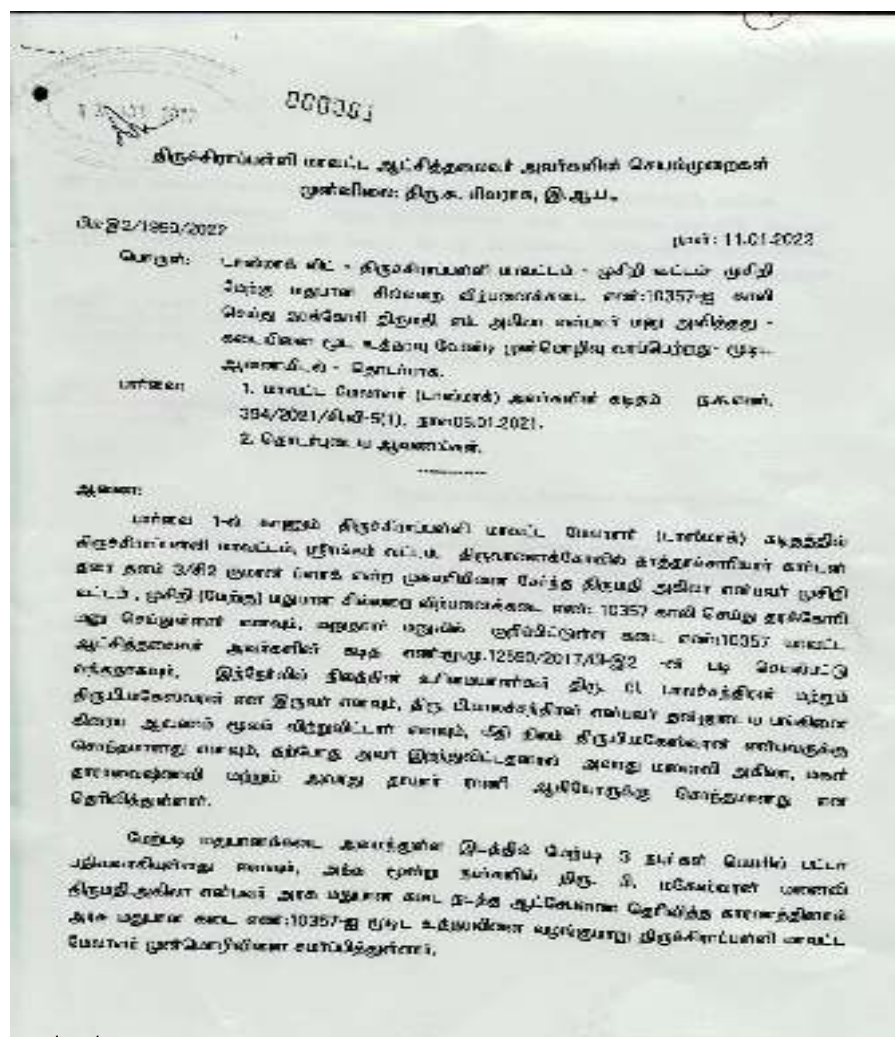
to the first respondent [District Collector] processing the fourth respondent's application requesting for said shop to be vacated. There is no disputation that an enquiry was conducted.

8. This Court is today informed by learned Standing Counsel for TASMAC [second respondent] that the first respondent [District Collector] has since passed an order on 11.01.2022 for shifting of said shop.

9. Learned State Counsel and learned Standing Counsel for TASMAC request for a short accommodation to place these proceedings of first respondent [District Collector] before this Court.

10. Registry to show the name of learned State Counsel and learned Standing Counsel for TASMAC in the next listing.'

3. Pursuant to aforementioned earlier proceedings more particularly paragraphs 8 and 9 therein, learned Standing Counsel for TASMAC has placed before this Court proceedings of the first respondent dated 11.01.2022 bearing reference gp & ,2/1999/2022, which is as follows:





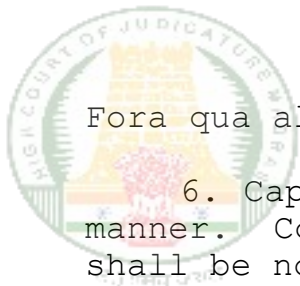
1894年11月 26日 星期一
1894年11月 27日 星期二
1894年11月 28日 星期三

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100 ԱՆՈՒ ՄԻԱԿԱՆՈՒԹՅԱՆ, ԼՈՒՐԵՆՏԻԱՆՈՒԹՅԱՆ, ԶԵՆՈՒԹՅԱՆ ԵՎ ԲԱՆԻՄԱՆՈՒԹՅԱՆ ԴԱՐԱՆՆԵՐԸ

1. முதுபிணைவு இன்சூலிய செலவுகள், உபவிலாச, திருச்சிபுரம்மாவில், (தொகுப்புக்களம்).
2. திருப்பிக் கட்டி ஆகியும், 3/4/72, முதுபிணைவு இன்சூலிய, திருச்சிபுரம்மாவில் கட்டி, திருப்பிக் கட்டி ஆகியும், திருச்சிபுரம்மாவில்.

5. Today Mr.N.Anandakumar, learned counsel for petitioner submitted that the fourth respondent who is none other than the petitioner's sister-in-law had demolished the superstructure i.e. said shop. This is completely outside the domain of captioned writ petition and therefore, this Court refrains itself from expressing any opinion or view on this more particularly owing to the fact that the fourth respondent is not before this Court. Further, a partition suit is pending between the private parties vide O.S.No.203 of 2019 on the file of III Additional District Judge's Court, Trichy. All rights and contentions of the writ petitioner in the said civil suit will remain intact and the civil Court will proceed with partition suit uninfluenced by any observations made in this order. This means that rights of the writ petitioner qua alleged demolition are left open to be agitated in the civil Court which will obviously give opportunity to the fourth respondent and pass orders after hearing both sides. Other rights if any in other cases can be pursued after hearing both sides.



Fora qua alleged demolition are also left open.

6. Captioned main writ petition is disposed of in the aforesaid manner. Consequently, captioned WMP is disposed of as closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsm

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The District Collector,
Trichy District, Trichy.
- 2.The District Manager,
Tamil Nadu State Marketing Corporation, (TASMAC),
Thuvakudi, Trichy-15.
- 3.The Revenue Divisional Officer,
Musiri, Trichy District.

Copy to
the III Additional District Judge, Trichy.

+1 CC to M/s.SPL.GP (SR-4229[F] dated 04/02/2022)

W.P(MD)No.2039 of 2022
and W.M.P. (MD)No.1751 of 2022
03.02.2022

sr(CO)
TR(15.02.2022) 5P 6C