



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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W.P. (MD) .No.9352 of 2022

and

W.M.P (MD) No.6716 of 2022

S.Marimuthu

... Petitioner

vs.

1.The District Collector,
Pudukottai District.

2.The Managing Director,
TASMAC Limited,
Thalamuthu Natarajan Building,
4th Floor, 2nd Block,
Egmore, Chennai - 8

3.The District Manager,
TASMAC Ltd,
Sipcot Industrial Area,
Pudukkottai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of mandamus, forbearing the respondents 1 to 3 not to shift the TASMAC shop in the proposed place in Seppavayal Village, Pudukkottai District from the existing place of TASMAC Shop No. 6754 situated at Door No.340/17, S.No.15/22, Madhagam, Avudaiyarkoil Taluk, Pudukkottai District and by considering the representation dated 30.04.2022 within the time stipulated by this Court.

For Petitioner : Mr.S.Bageerathan

For R1 : Mr.G.Sivarajan
Government Advocate

For R2 & R3 : Mr.H.Arumugam

O R D E R

This writ petition is filed by the petitioner, who is the landlord of the premises in which a TASMAC retail shop is situated. Now, by an order dated 25.03.2022, the District Magistrate had passed an order locating the shop in a different place.



2. This writ petition is filed on two grounds. Firstly, the petitioner states that the decision to relocate the shop from his premises is without any proper reason as his building is in a sound condition and even the structural stability certificate has been given by the appropriate authority. The second reason for filing the writ petition is that the place in which the shop now sought to be located is an objectionable place and there are schools etc., which are located within the prohibited distance.

3. Per contra, Mr.H.Arumugam, learned counsel appearing for the TASMAL would submit that the District Collector has considered all the parameters and ordered the location of the shop to the new premises which is a commercial decision taken by the organization and the petitioner landlord has got no right to compel the continuation of the tenancy.

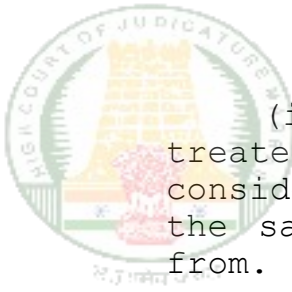
4. I have considered the submissions made on behalf of both sides and perused the material records of the case.

5. As far as the first question of continuing the tenancy with the petitioner is concerned, I am in agreement with the learned counsel appearing for the respondents that the petitioner being a landlord, unless there is lock-in period provided in the lease agreement, has no right to compel the respondents/TASMAL to continue the retail shop in his premises. Therefore, the writ petition on this premise cannot succeed. Now, the second limb of argument is that the new place in which the shop is sought to be located is an objectionable place. In this regard, a specific order is passed by the District Collector on 25.03.2022 ordering location of the shop. Now, as per GO.Ms.No.17, dated 13.02.2022, Rule 9-A is added to the Tamil Nadu Liquor Retail Vending (in shops and bars) Rules 2003, whereby any person aggrieved by the order of the District Collector may file an appeal before the Commissioner of Prohibition and Excise within a period of 30 days from the date of receipt of the order.

6. In view of the fact that the order of the Collector is dated 25.03.2022, I am inclined to extend the time for a period of two weeks from the date of receipt of a copy of this order for the petitioner to prefer an appeal.

7. In view of the above finding, I am inclined to dispose of the writ petition on the following terms:-

(i) the petitioner shall be entitled to file an appeal before the Commissioner of Prohibition and Excise as against the order of the District Collector dated 25.03.2022, within a period of two weeks from the date of receipt of a copy of this order.



(ii) If such an appeal is filed, the same shall be treated as within time and the appellate authority may consider the appeal in accordance with law and dispose of the same on merits within a period of eight weeks there from.

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(iii) There shall be no order as to costs.

Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv/ebsi

To

The District Collector,
Pudukottai District.

+1 CC to M/s.S. BAGEERATHAN, Advocate (SR-23518[F] dated
06/05/2022)

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