



W.P(MD).Nos.13399 and 14811 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).Nos.13399 and 14811 of 2022

and

W.M.P(MD)Nos.9510 and 10594 of 2022

W.P(MD)No.13399 of 2022

A.Alageswaran

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Marketing Corporation,
(TASMAC)
CMDA Complex, Egmore,
Chennai-600 008.

2.The District Collector,
Office of the District Collector,
Madurai District.

3.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC)
Anna Nagar, Madurai-625 020.

4.The District Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC)
Madurai North District,
Manalur, Sivagangai District.

...Respondents



W.P(MD).Nos.13399 and 14811 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents from shifting the TASMAL retail shop number 5121 from the present place at Survey No.7/2 A-1, J.J.Nagar, Vandiyur Bit-I, Madurai District and consequently directing the respondents 1, 3 and 4 to pay rent for shop to the petitioner.

For Petitioner : Mr.S.Malaikani
For Mr.A.Mohan
For R1, R3 & R4 : Mr.H.Arumugam
Standing Counsel
For R2 : Mr.P.Subbaraj
Special Government Pleader

W.P(MD)No.14811 of 2022

A.Alageswaran

... Petitioner

Vs.

- 1.The Managing Director,
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5.A.Sambathkumar

6.D.Sundaram

...Respondents

(R5 and R6 are impleaded vide Court order dated 26.07.2022 in WMP(MD)No.11744 of 2022)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, calling for the entire records connected to the order in Na.Ka.No.710/2022/A5, dated 04.07.2022 passed by the fourth respondent and quash the same as illegal.

For Petitioner : Mr.S.Malaikani
For Mr.A.Mohan
For R1, R3 & R4 : Mr.H.Arumugam
Standing Counsel
For R2 : Mr.C.Satheesh
Government Advocate

COMMON ORDER

The petitioner challenging the order in Na.Ka.No.710/2022/A5, dated 04.07.2022 issued by the fourth respondent. The TASMAL shop situated in Survey No.7/2 A-1, J.J.Nagar, Vandiyur Bit-I, Madurai District proposed to be shifted to another place, since the owner of the property sold the property to some third person to meet his daughter's marriage expenses. He has written to the TASMAL as well as District Collector, Sivagangai to shift the shop. Based on the same, the District Manager sent communication to the shop supervisor and bar owner of Shop No.5121 to identify new place so that the Shop No.5121 can be shifted.



2. The contention of the petitioner is that the petitioner's rental agreement with one A.Sambathkumar, son of Alagirisamy is for five cents of land. The petitioner and his brother-in-law jointly entered into a rental agreement on 03.08.2018 for ground rent. The ground rent was fixed and the period of tenancy was initially fixed for three years. After entering into the said rental agreement, the petitioner spent over Rs.15,00,000/- to put up construction to house, TASMAC retail vending shop and bar attached to it. In the rental agreement, the petitioner given right to put up construction. The petitioner was carrying on business there. On 17.09.2021, fresh rental agreement was entered into between petitioner and Sambathkumar earlier agreement was for a period of three years, but this time agreement was for a period of 2 years. In the meantime, Sambathkumar was willing to sell the property to the petitioner within two years, the petitioner was expressed his willingness. One Sundaram was granted licence to collect empty bottles and to sell eatables in the bar for the period 2020-2023. When there is a valid rental agreement till September 16.09.2023, the fourth respondent issued notice on 12.05.2022 to shift the shop to some other place. The petitioner filed W.P(MD)No.13399 of 2022 seeking direction to forbear the respondents from shifting Shop No.5121. Pending these writ petitions, the impugned order was passed.



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3. The learned Standing Counsel for the respondents 1,3 and 4 submits that the TASMACH enters into agreement with any one willing to offer the place for rent, and the same is accepted on terms and conditions. In this case, the shop located in the idol spot. The respondents 1,3 and 4 are not aware for what reason, lease between the Sambathkumar and the petitioner is to be terminated. The petitioner was regularly making payments and the shop was running smoothly. The said Sambathkumar sent representation to the District Collector, Sivagangai as well as the TASMACH officials informing that he intends to sell his property and requested the TASMACH to vacate the shop. The TASMACH officials found that there was dispute between the land owner and the petitioner. The TASMACH officials not interested to get involved in the tussle between land lord and tenant and decided to shift the shop and the bar licensee, namely, Sundaram willing to shift his bar. Thereafter, place was identified and now, the shop is shortly to be shifted. Pendency of the above writ petitions, the shop could not be shifted immediately.

4. The learned Special Government Pleader for the second respondent submits that owner of the property sent a representation to the District Collector, Sivagangai informing that he intends to sell his property to meet



out his daughter's marriage expense, further having Shop No.5121 in the property is seen as an obstacle for sale. Hence, he requested to shift the TASMAC shop. The District Collector, Sivagangai forward the letter to the TASMAC officials to take action. The TASMAC officials on enquiry found the grievance of Sambathkumar genuine, identified alternate site for shop, all permission received. The shop was ready for shifting has been informed.

5. Considering the submission and on perusal of the materials, it is seen that the shifting of the shop is a prerogative of the TASMAC. The only condition is that they have to get consent from the Collector before opening a new shop. This consent is only for the purpose to find out whether there is any restriction or objection in the location from the residents and others, otherwise TASMAC is at their own will to shift the shop, wherever it is required. The TASMAC officials finding that there is dispute between the petitioner and the land owner is not willing to further get into their entanglement. If at all the petitioner has any grievance, the petitioner to seek appropriate relief against Sambathkumar, land owner and for that reason, he cannot question the shifting of Shop No.5121 by the TASMAC officials.



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6. In view of the same, this Court finds no reason to entertain these petitions. Hence, these writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

05.08.2022

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Index : Yes / No

Internet : Yes/ No

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M.NIRMAL KUMAR, J.

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