



W.P. (MD) No. 14013 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEAVALU

W.P. (MD) No. 14013 of 2022

and

W.M.P.(MD)No. 9999 of 2022

Jamila Barisha

... Petitioner

Vs.

1.The District Collector,
Virudhunagar.

2.Assistant Commissioner of Excise,
Department of Prohibition and Excise,
Collectorate Complex,
Virudhunagar.

3.The Manager,
Tasmac,
Virudhunagar.

4.Macharaja

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India,
to issue a Writ of Mandamus directing the respondents 1 and 2 to stop the



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retail vending of TASMACH shop (in shop No.11911) situated at the petitioner's property in Plot No.25, Door No.41, Melapettai Street, Madurai Road, Virudhunagar Town, Virudhunagar District and to hand over the key to the petitioner by considering the petitioner's representations dated 10.06.2022 and 16.06.2022.

For Petitioner	: Mr. K.Seenu Ramachandran
For R-1 to R-2	: Mr. P.Subbaraj Special Government Pleader
For R3	: Mr. H.Arumugam Standing Counsel

ORDER

Heard Mr. K.Seenu Ramachandran, Learned Counsel for the Petitioner, Mr. P.Subbaraj, Learned Special Government Pleader appearing for the First and Second Respondents and Mr. H.Arumugam, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Petitioner has filed the Writ Petition for directing the First and Second Respondents to stop the retail vending of TASMAL shop No.11911 located at his property in Plot No.25, Door No.41, Melapettai Street, Madurai Road, Virudhunagar Town, Virudhunagar District and to hand over the key to the Petitioner by considering his representations dated 10.06.2022 and 16.06.2022.

3. Having regard to the nature of the aforesaid relief sought, it must be pointed out that the Hon'ble Supreme Court of India in the decision in ***Roshina T -vs- Abul Azeez K.T.*** [(2019) 2 SCC 329], has cautioned against determining disputed questions of fact relating to property rights in proceedings following summary procedure under Article 226 of the Constitution and that the same would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. In view of the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure. He has also made an endorsement to that effect.



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In fine, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petition is closed. No costs.

19.12.2022

Index : Yes/No
Internet : Yes/No
Sm

Note: Issue order copy by 26.12.2022

TO:

- 1.The District Collector,
Virudhunagar.
- 2.Assistant Commissioner of Excise,
Department of Prohibition and Excise,
Collectorate Complex,
Virudhunagar.
- 3.The Manager,
Tasmac,
Virudhunagar.



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P.D.AUDIKESAVALU,J.

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