



WEB COPY



W.A.No.2405 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

CORAM

THE HONOURABLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.2405 of 2022

Tmt.Balamani

.. Appellant

Versus

1.V.Malaiarasu

2.The Regional Manager,
TASMAC, Coimbatore.

3.The District Manager,
TASMAC, Tiruppur.

4. Inspector of Police,
Palladam Police Station,
Tiruppur.

5.Inspector of Police,
Tamil Nadu Prohibition Enforcement Wings-PEW,
Tiruppur.

6.Arunkumar

.. Respondents

Prayer: Writ Appeal has been filed under Clause 15 of Letters Patent against the order passed by the learned Single Judge in W.P.No.3978 of 2022, dated 13.04.2022.

For Appellant

: Mr.V.Elangovan

For R2 and R3

: Mr.M.Sekar, Standing Counsel

For R4 & R5

: Mr.P.Muthukumar, State GP

For R1 & R6

: No Appearance



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JUDGMENT

(Delivered by The Hon'ble Acting Chief Justice)

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The writ appeal is directed against the impugned order passed by the learned Single Judge in W.P.No.3978 of 2022, dated 13.04.2022.

2. One Mr.Malaiarasu/first respondent herein has filed W.P.No.3978 of 2022 seeking for issuance of a writ of mandamus directing the District Manager, TASMACH, Tiruppur, to close the illegal TASMACH shop and bar in TASMACH Shop No.2264, Naranapuram Village, Sedapalayam Road, Palladam, or to shift to any other place.

3. Brief facts leading to the filing of the writ appeal are stated below:-

Originally, the land belonging to the appellant herein was leased out to the writ petitioner for a period of 5 years on 17.09.2021. Subsequently, the lease period has been extended upto 2026 in favour of the writ petitioner. Since the agreement was entered with the TASMACH to run TASMACH retail vending shop No.2264, it was the claim of the writ petitioner that he being a lessee of the entire land including the land utilized for the Bar, for which the sixth respondent was the highest bidder, raised an objection not to give the license to the sixth respondent. Subsequently, the writ petitioner has filed the above said writ petition seeking to close the TASMACH shop in question.

4. Learned Single Judge, taking note of the allegation of the writ petitioner that the



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sixth respondent has been running the bar illegally, gave direction that the respondent TASMAC shall find out an alternative place within a period of four months and after finding alternative place, they should relocate the shop. Aggrieved thereby, fifth respondent in the writ petition, owner of the land leased out to the writ petitioner, has filed this appeal.

5. Learned counsel for the appellant would submit that since the lease granted in favour of the writ petitioner was cancelled on 27.06.2022, the appellant has become the absolute owner of the land in question, therefore, he is entitled to run the shop.

6. Learned counsel for the TASMAC would submit that since the Bar has been running without getting NOC from the writ petitioner, the order was passed. However, in view of the fact that the fifth respondent/appellant herein has become absolute owner of the property, after cancelling the lease granted in favour of the writ petitioner, there is no need to shift the TASMAC shop in question to any alternative place.

7. Learned counsel for the appellant has also produced a copy of the letter dated 24.11.2012 of the writ petitioner addressed to the second respondent, in which, it is stated that he has no objection to continue to run the TASMAC shop in the appellant's property, besides giving assurance that he would not seek for any relief in the present writ appeal. The said letter dated 24.11.2012 of the writ petitioner is recorded.

8. In view of the above, since the license has already been given to the sixth



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respondent to run the TASMAC shop in the appellant's property and that the writ petitioner has also given no objection for the same, the impugned order giving direction to find out alternative place is set aside. Consequently, the appellant is entitled to receive the rent from the respondents 2 and 3/TASMAC.

9. In fine, for the reasons stated above, the writ appeal stands allowed. No Costs.

Consequently, C.M.P.No.18502 of 2022 stands closed.

(T.R., ACJ.) (D.B.C., J.)
25.01.2023

rkm

Index:yes/no

Speaking/non-speaking

To

1.The Regional Manager,
TASMAC, Coimbatore.

2.The District Manager,
TASMAC, Tiruppur.

3. Inspector of Police,
Palladam Police Station,
Tiruppur.

4.Inspector of Police,
Tamil Nadu Prohibition Enforcement Wings-PEW,
Tiruppur.

THE HON'BLE ACTING CHIEF JUSTICE
and



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