



W.P.No.31622 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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Ramasami

.. Petitioner

Vs

1.The District Collector,
Collectorate,
Thiruvarur.

2.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd. (TASMAC),
Chennai.

3.The Regional Manager,
Tamil Nadu State Marketing Corporation Ltd. (TASMAC),
Thiruvarur.

4.The District Manager,
Tamil Nadu State Marketing Corporation Ltd. (TASMAC),
Thiruvarur.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents particularly, the District Collector, Thiruvarur District and the District Manager, Tamil Nadu State Marketing Corporation Ltd. (TASMAC)



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Retail Liquor Vending Shops, Thiruvarur District, respondents 1 and 4, to shift the TASMAL shop/bar situated in an agricultural land in Survey No.260/10 in Aanaikuppam Village, Nannilam Taluk, Thiruvarur District, and further direction to the District Collector, Thiruvarur District to some other place.

For the Petitioner : Mr.V.Vargees Amal Raja

For the Respondents : Mr.P.Muthukumar
State Government Pleader
for respondent No.1

: Mr.C.Ramesh
Standing Counsel
for respondent Nos.2 and 3

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

Ramasami, son of Vaithilingam, a resident of Aanaikuppam Village, Nannilam Taluk, Thiruvarur District, has filed this writ petition seeking issuance of a writ of mandamus to direct respondents 1 and 4 to shift the TASMAL shop/bar situated over an agricultural land in Survey No.260/10 in Aanaikuppam Village, Nannilam Taluk, Thiruvarur District, to some other place.

2. Mr.V.Vargees Amal Raja, learned counsel for the petitioner,



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would submit that the petitioner is a retired Village Administrative Officer engaged in agricultural activities. Since the respondents tried to open a TASMAL shop/bar in Survey No.260/10, which is classified as Punjai land in the patta issued by the Tahsildar, Nannilam Taluk, Thiruvarur District, the villagers raised objection and, on 2.10.2021, the Kuvalaikaal Village Panchayat passed a resolution against the setting up of TASMAL shop and bar in the corridor of water channel, that too, on the road leading to the hospital and school. It is further stated that, on the very same day, i.e., on 2.10.2021, the Moongilkudi Village Panchayat, Moolankudi Village Panchayat, Aanaikuppam Village Panchayat and Thattathimoolai Village Panchayat passed resolutions against the setting up of the TASMAL shop/bar. The Village Panchayats and the Panchayat Presidents submitted detailed representations on 18.3.2022 and 5.9.2022 against the opening of the TASMAL shop/bar in the agricultural land. However, the respondents without paying any heed to the said representations opened the TASMAL shop and bar on 10.11.2022. Hence, the petitioner has been advised to file this writ petition.



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3. Learned counsel for the petitioner placed heavy reliance on an order dated 19.7.2019 passed in W.P.No.20076 of 2019 [*C.Muthusamy v. The State of Tamil Nadu and others*] by a Co-ordinate Bench of this Court, wherein it has been categorically observed that a TASMAC shop should not be set up over an agricultural land.

4. Mr.C.Ramesh, learned Standing Counsel appearing for respondents 2 and 3, submitted that the President of the Aanaikuppam Village Panchayat has given no objection to the establishment of TASMAC shop/bar in the agricultural land and, therefore, the writ petition may be dismissed.

5. It is beyond any cavil that the land in question is classified as punjai land and this Court in *C.Muthusamy*, supra, has categorically held that TASMAC shop should not be set up over agricultural land. That apart, a perusal of the documents filed in



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support of the writ petition shows that the TASMACH shop has been set up in close proximity to the water channel and a steel bridge has been unauthorisedly erected to enable the consumers have access to the TASMACH shop/bar, which is in gross violation of the law laid down in *C.Muthusamy*, supra.

6. This Court is unable to accept the submission of learned Standing Counsel for respondents 2 and 3 that the President of Aanaikuppam Village Panchayat has given no-objection for setting up of the TASMACH shop in the agricultural land, for the reason that five Village Panchayats have passed resolutions objecting to the setting up of TASMACH shop in the corridor of water channel, on the road leading to the hospital and school. A President of a Village Panchayat legally cannot take a stand different from the stand taken by the Village Panchayats in their resolutions. He is also bound by the resolution passed by his own Village Panchayat.

For the foregoing reasons, the writ petition is allowed and the respondent authorities are directed to forthwith close the TASMACH



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shop/bar situate in the agricultural land in Survey No.260/10 in Aanaikuppam Village, Nannilam Taluk, Thiruvarur District. There will be no order as to costs. Consequently, W.M.P.No.31076 of 2022 is closed.

(T.R., ACJ.) (D.B.C., J.)
07.03.2023

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