



W.P(MD)No.24689 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

W.P(MD)No.24689 of 2023
and
W.M.P(MD)No.20870 of 2023

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... Petitioner

vs.

1. The District Collector,
Pudhukottai District.

2. The Superintendent of Police,
Pudhukottai District.

3. The Regional Manager,
TASMAC,
Pudhukottai.

4. The Tahsildar,
Alangudi Taluk,
Pudukottai District.

5. The Inspector of Police,
Keeramangalam Police Station,
Pudhukottai District.

... Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 3rd respondent to evict the Liquor Shop No.6618 at S.No.287/2 in Kothamangalam Village, Alangudi Taluk, Pudhukottai District, based on the representations made by the petitioner to the respondents 1 to 4 on 22.09.2023, in person.

For Petitioner : Mr.S.M.Ramasiva
For R1 & R4 : Mr.P.Thilakkumar, Government Pleader
For R2 & R5 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor
For R3 : Mr.H.Arumugam, Standing Counsel

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

This order will now dispose of the captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) and the captioned 'Writ Miscellaneous Petition' (hereinafter 'WMP' for the sake of brevity) therein. Captioned Writ Petition has been filed in this Court on 09.10.2023 as a 'Public Interest Litigation' (hereinafter 'PIL' for the sake of brevity)

2. In the previous listing of the captioned WP, the following proceedings were made:



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M.SUNDAR, J.
and
R.SAKTHIVEL, J.

ORDER

[Order of the Court was made by M.SUNDAR, J.]

The captioned matter pertains to a 'Tamil Nadu State Marketing Corporation Limited' [TASMAC for brevity] shop No.6618, situate in 'S.No.287/2, in Kothamangalam Village, Alangudi Taluk, Pudukottai District' [hereinafter 'said land' for the sake of brevity and convenience].

2. We are concerned with the 'Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules 2003' [said Rules for the sake of convenience], which is subordinate legislation made by the Executive Arm in exercise of Rule making power conferred on it vide the 'Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937)' [hereinafter 'Prohibition Act' for convenience].

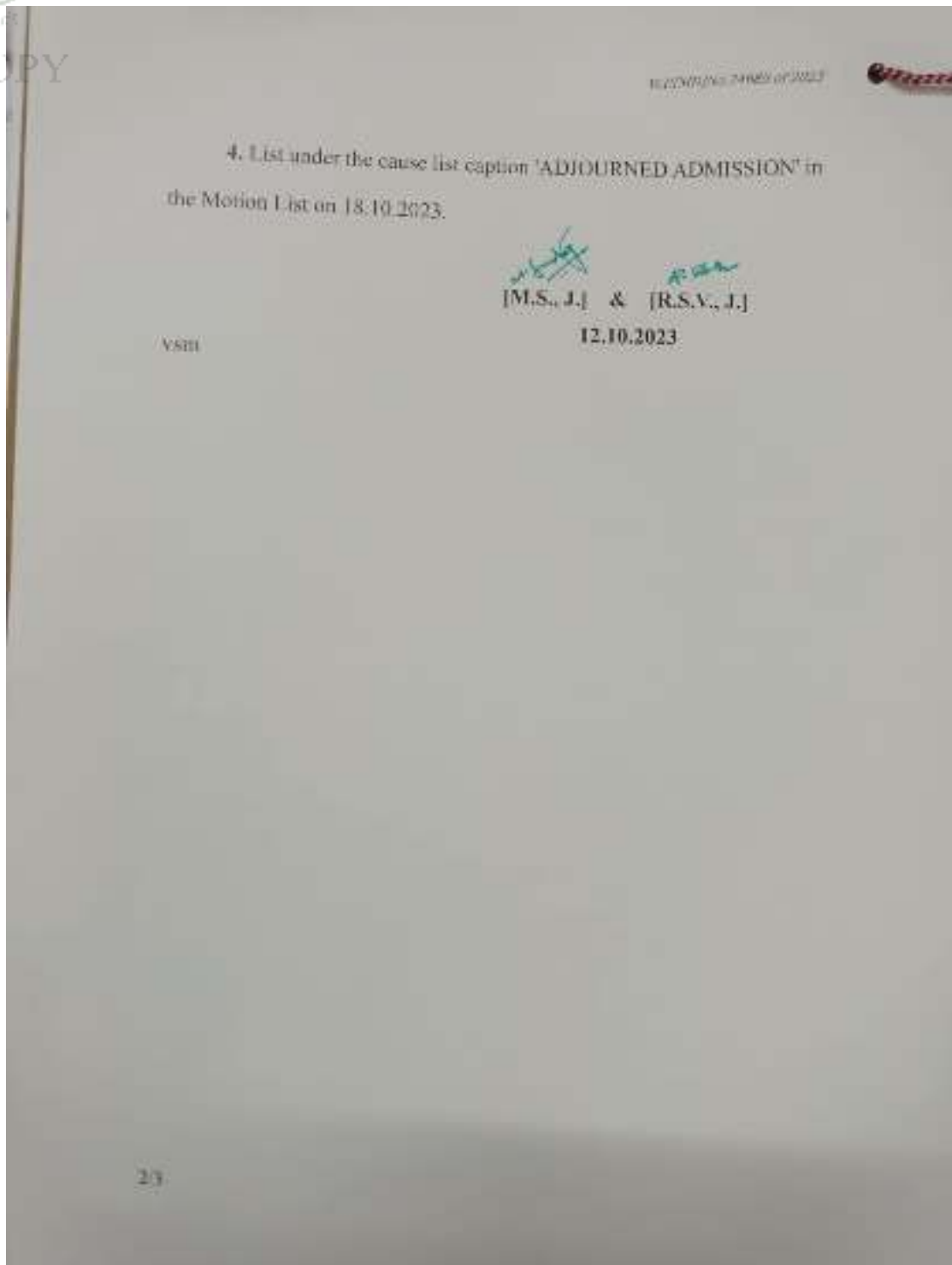
3. When the matter was taken up, Mr.S.M.Ramasiva, learned counsel requested for a short accommodation to examine the Rule position and come before this Court. Request acceded to.

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3. The aforementioned 12.10.2023 proceedings are telltale and it captures all essentials necessary for appreciating this order and therefore we are not setting out the same again. The short forms, short references and abbreviations used in the order dated 12.10.2023 will be used in the instant proceedings also for the sake of convenience and clarity.

4. Today, Mr.S.M.Ramasiva, learned counsel on record for petitioner advertent to earlier proceedings drew our attention to Rule 8(1) of the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003 [hereinafter 'said rules' for the sake of brevity and convenience] and pointed out that 'place of worship' has been defined in Rule 2(p) of said rules.

5. Issue notice to respondents.

6. Mr.P.Thilakkumar, learned Government Pleader accepted notice for respondents 1 and 4, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor accepted notice for respondents 2 and 5 and Mr.H.Arumugam, learned Standing Counsel accepted notice for 3rd respondent.



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7. Mr.H.Arumugam, learned Standing Counsel for TASMAC

submitted on instructions that the temple that is being referred to namely, Shree Pattavaya Sannasi Karuppar Aalayam is not situate within 15 feet from the said land where TASMAC Shop No.6618 is situate but is situate 1.6 kilometers away according to the Town Survey. Learned standing counsel for TASMAC also pointed out that the writ petitioner who is a former Panchayat President had himself sent a representation in 2018 requesting for establishing the TASMAC shop concerned. However, we refrain from expressing any opinion on this aspect of the matter as the matter is taking a slightly different trajectory.

8. As regards the location of said TASMAC shop and the temple, learned counsel has placed before us five photographs as part of the typed set of papers. Three photographs according to learned counsel are TASMAC shop No.6618 and two photographs are that of the temple but there is no common photograph showing both the TASMAC shop and the temple.

9. This Court suggested that an Advocate Commissioner or one of the Registrars can be sent for a local inspection but with a caveat that



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heavy cost will be imposed on the petitioner if the contention is found to be false and if otherwise i.e., if the petitioner's contention is correct, serious view of the matter will be taken as regards the authorities who made a survey and cleared the said land. It is at this juncture that learned counsel for writ petitioner submitted that he needs further instructions.

10. Faced with the above situation, learned counsel submitted that further instructions and inputs may be required and therefore sought leave to withdraw the captioned WP but made a plea to preserve the rights of the petitioner and / or any one concerned with the matter to come to this Court with the same plea / same prayer. Scanned reproduction of the endorsement made by the learned counsel in the case file is as follows:

Permitted may to withdrawn
Counsel for Petitioner
SM. Rama Siva.
Dat - 18/10/2023
FN No - MS/3353/2021



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11. In the light of the narrative thus far, captioned WP and WMP are disposed of as closed / withdrawn albeit preserving the rights of the petitioner and / or any one concerned with this issue to come to this Court on the same issue giving particulars with exactitude, specificity and clarity. There shall be no order as to costs.

(M.S., J.) (R.S.V., J.)
18.10.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

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Pudhukottai District.
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ORDER MADE IN
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DATED : 18.10.2023