



WEB COPY



W.P.No.869 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.01.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.869 of 2024
and W.M.P.Nos.899 & 900 of 2024

M.Kannan

... Petitioner

-VS-

1.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
CMDA Tower II, IV floor,
Gandhi Irwin Road,
Egmore, Chennai.

2.The Commissioner,
Prohibition & Excise Department,
Chepauk,
Chennai.

3.Senior Regional Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Coimbatore Region,
Coimbatore.

4.District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Coimbatore South Zone, Coimbatore.



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5.The Superintendent of Police,
Office of the SP,
Pollachi sub-division, Coimbatore.

6.The Inspector of Police,
Pollachi West Police Station, Coimbatore District.

7.S.Dharma Raja

8.M.Dharmaraj

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari calling for the records of the 4th respondent relating to the impugned licence issued in favour of the 7th respondent dated 26.12.2023 bearing Na.Ka.No.RV3/1181/2023 for running the bar attached with TASMACH shop No.1895 and quashing the same.

For Petitioner : Mr.Srinath Sridevan, Senior Counsel
for Mr.V.Karthikeyan

For RR1, 3 & 4 : Mr.K.Sathish Kumar
Standing Counsel (TASMACH)

For R2 : Mr.E.Sundaram, Government Advocate

For R5 & R6 : Mr.RMD.Mugilan, Govt. Adv. (Crl.side)



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ORDER

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2. The petitioner asserts that he is the lessee in respect of the relevant premises and that the lease deed dated 21.01.2022 is for a period of 60 months or five years. Since the petitioner has a valid and subsisting lease in respect of the relevant premises, the grant of licence to the 7th respondent is assailed.

3. Learned Senior Counsel for the petitioner contends that the 7th respondent is not in possession of the relevant premises and, therefore, the licence issued to him is liable to be quashed. In the alternative, he submits that the operation of the bar on the basis of the impugned licence be stayed until the appellate authority decides the petitioner's appeal under the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003. He also points out that a civil suit was filed before the District Munsif, Pollachi to protect the lawful possession of the petitioner.



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4. Mr.K.Sathish Kumar, learned Standing Counsel (TASMAC), accepts notice on behalf of respondents 1, 3 & 4. Mr.E.Sundaram, learned Government Advocate, accepts notice for the 2nd respondent. Mr.RMD.Mugilan, learned Government Advocate (Crl.side), accepts notice on behalf of respondents 5 & 6.

5. The licence was issued to the 7th respondent pursuant to a tender floated by TASMAC. The admitted position is that the 7th respondent was the highest bidder and that the petitioner herein participated in the tender but was the 2nd highest bidder. Since TASMAC conducted an auction and issued a licence to the 7th respondent pursuant thereto, the petitioner, who also participated in the said auction, is not entitled to challenge the licence issued to the 7th respondent on the basis of the allegedly subsisting lease. Undoubtedly, the petitioner is entitled to initiate appropriate legal action in respect of possession under the lease and such action was initiated in the form of the suit before the District Munsif, Pollachi.



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6. For reasons set out above, W.P.No.869 of 2024 is dismissed by

leaving it open to the petitioner to pursue civil proceedings so as to protect alleged possession pursuant to the lease. There will be no order as to costs.

Consequently, connected Miscellaneous Petitions are closed.

12.01.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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4.District Manager,
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