



W.P.No.1725 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.1725 of 2024
and W.M.P.Nos.1773, 1775 of 2024

M.Muthulingam

... Petitioner

-VS-

- 1.The Government of Tamil Nadu
Rep. by its Secretary,
Home Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.
- 2.The District Collector,
Office of the District Collector,
Villupuram.
- 3.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd.,
4th Floor, Thalamuthu Natarajan Maligai,
Egmore, Chennai 600 008.
- 4.The District Manager / Deputy Collector,
Tamil Nadu State Marketing Corporation Ltd (TASMAC),
Villupuram District.

5.Viji

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus, directing the respondents particularly the 2 to 4th respondents the District Collector, Villupuram District the Managing Director TASMAL, Egmore, Chennai 600 008 the District Manager / Deputy Collector, (TASMAL) Villupuram District not to shift the TASMAL Shop No.11582 situated at Ariyanthangal Road, Marakkanam Village, Villupuram District based on the representation dated 06.01.2024 of the petitioner to any other proposed place in Brammadesam Village, Marakkanam Taluk.

For Petitioner : Mr.T.Mohan, Senior counsel

For Respondents : Mr.D.Ravichander, Spl. GP
1 and 2

For Respondents : Mr.K.Sathish Kumar, SC (TASMAL)
3 and 4



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ORDER

The petitioner seeks a direction to the second to fourth respondents not to shift Shop No.11582, situated at Ariyanthangal Road, Marakkanam Village, Villupuram District. The petitioner asserts that he is the owner of the premises bearing Survey No.115/19B, 115/21B at Ariyanthangal Road, Brammadesam Village, Marakkanam Taluk, Villupuram District. It is further submitted that a shop was constructed at the said premises by investing a sum of about Rs.25,00,000/- for use as a TASMAL shop. Upon ascertaining that TASMAL proposes to shift the shop, the petitioner issued representation dated 06.01.2024 to respondents 2 to 4 and filed the present writ petition to direct the respondents not to shift the shop.

2. Learned senior counsel for the petitioner invited my attention to Rules 9 and 10 of the Tamil Nadu Liquor Retail Vending (in shops



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and bars) Rules, 2003 (TN Liquor Retail Vending Rules) and submitted that the bar is required to be within the shop or adjoining the shop. Since the shop has been constructed in the premises owned by the petitioner, he contends that the location of the bar should be fixed with reference to the location of the shop and not vice versa. He further submits that the petitioner's representation would be rendered infructuous if the shop is shifted before the consideration thereof.

3. Mr.K.Sathish Kumar, learned standing counsel for TASMAC, accepts notice on behalf of the third and fourth respondents. He submits that TASMAC conducted an auction in respect of the shop attached bar and the successful bidder at the auction is required to comply with requirements such as production of NOC from the owner of the property within a stipulated time limits. Therefore, he submits that the petitioner does not have the locus-standi to file the writ petition.



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4. Mr.D.Ravichander, learned Special Government Pleader, accepts notice on behalf of the first and second respondents. He submits that the writ petitioner is attempting to indirectly scuttle the licence issued in favour of the fifth respondent. He further submits that this is not the appropriate forum to resolve the dispute between the landlord and lessee / licensee of the property.

5. On examining Rules 9 and 10 of the Tamil Nadu Liquor Retail Vending Rules, it is clear that the location of the shop cannot be shifted without the prior permission of the Collector. The proviso to Rule 9 also provides that such permission shall not be given unless the representation received in such regard is considered and decided. In this case, the petitioner has submitted representations dated 03.01.2024 and 06.01.2024 to the second and fourth respondents. Accordingly, without expressing any opinion on the merits of the



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matter, this writ petition is disposed of by directing the second and fourth respondents to dispose of representations dated 03.01.2024 and 06.01.2024 after providing a reasonable opportunity to the petitioner and the fifth respondent. Since no opinion is being expressed on the merits and because the second and fourth respondents have been directed to provide an opportunity to the fifth respondent before disposing of the representations, this writ petition is disposed of without issuing notice to the petitioner. It is made clear that Shop No.11582 shall not be shifted until the representations are considered and disposed of.

6. W.P.No.1725 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.1773, 1775 of 2024 are closed.

30.01.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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To

- 1.The Secretary,
Home Prohibition and Excise Department,
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