



W.P(MD)No.9956 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.P(MD)No.9956 of 2024

Bensa Devaraj

... Petitioner

VS.

- 1.The District Collector,
Nagercoil,
Kanniyakumari District.
- 2.The Superintendent of Police,
Nagercoil,
Kanniyakumari District.
- 3.The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
CMDA Tower – II, IV Floor,
Gandhi – Irvin Bridge Road,
Egmore,
Chennai.
- 4.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
IMFS Depot, Bethel Nagar,
Senbagaramanputhur – Aaralvaymozhi,
Thovalai Taluk,
Kanniyakumari District.



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5.The Chairman,
Kollemcode Municipality,
Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to close the TASMAL shop in Shop No.4817 at Nambaani Salani Aatrupuram, Nithiraivilai Post, Vilavankode Taluk, Kanniyakumari District which was fraudulently open by them within a time stipulated by this Court.

For Petitioner

: Mr.N.Parameswaran

For Respondents

: Mr.P.Thilak Kumar
Government Pleader
for R.1

: Mr.M.Veeranthiran
Government Advocate (Crl. Side)
for R.2

: Mr.S.Sivanesan
Standing Counsel
for R.3 & R.4

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

The prayer sought for in this Writ Petition is for a Writ of Mandamus, to direct the respondents to close the TASMAL shop in Shop No.4817 at Nambaani Salani Aatrupuram, Nithiraivilai Post, Vilavankode

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Taluk, Kanniyakumari District, which was fraudulently opened by them within a time stipulated by this Court.

2.The petitioner claiming to be the School Teacher has filed this Writ Petition as a Public Interest Litigation. His grievance that has been espoused through this Writ Petition on behalf of the public in the locality is that TASMACH Shop No.4817 had been permitted to be opened in a shop with an address 6-33D, Nambaali Salai Aatrupuram, Nithiraivilai Post, Vilavankode Taluk, Kanniyakumari District.

3.This order was passed by the proceedings of the District Collector, Kanyakumari District on 12.12.2021, pursuant to which the shop was established there and has been running for the past three years.

4.Now, the objection that has been made by the petitioner on behalf of the public allegedly that the permission was granted only in a shop at 6-33D, whereas it is located in 6-33D/1, which is in a different place and also it comes within the prohibited area, where there has been a private hospital situated, therefore, the shop should be closed.



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5.Reiterating the aforestated, the learned counsel appearing for the petitioner has made submissions and seeks indulgence of this Court.

6.Heard Mr.P.Thilak Kumar, learned Government Pleader appearing for the first respondent, Mr.Veeranthiran, learned Government Advocate (Criminal Side) appearing for the second respondent and Mr.S.Srinivasan, learned standing counsel for the respondents 3 and 4/TASMAC.

7.Insofar as the location of the TASMAC shop No.4817 is concerned, though it has been mentioned in the order of the District Collector, dated 12.12.2021 that the address of the shop is 6-33D, but it has been wrongly mentioned as 6-33D, but in fact the correct address is 6-33D/1. This has also been clarified by the very owner of the shop, namely one Rajendra Kumar, who had given a letter, dated 20.11.2023 to the District Manager of TASMAC stating that the door number has been wrongly mentioned as 6-33D instead of 6-33D/1, therefore, such a correction has to be made.



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8.Assuming that there is a shop in 6-33D and another shop in 6-33D/1, as projected by the petitioner, it makes no difference with regard to the distance rules. Moreover, the TASMAL shop was opened in the year 2021, been run for the past three years, therefore, all of a sudden, if such an objection has come, that too, without any substantiating reasons or documents by making a mere allegation that it is within the prohibited area by taking advantage of the error committed in the order, dated 12.12.2021 that instead of 6-33D/1 since it has been mentioned as 6-33D, the petitioner cannot take undue advantage without having any substantiated grounds. Therefore, we are not inclined to entertain this Writ Petition. Hence, it is dismissed. However, there shall be no order as to costs.

[R.S.K.,J.] [G.A.M.,J.]
24.04.2024

NCC : Yes / No
Index : Yes / No
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