



W.P.(MD)No.10565 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.(MD)No.10565 of 2024

and

W.M.P.(MD)No.9491 of 2024

M.Marimuthu @ Samy Marimuthu

: Petitioner

Vs.

1.The District Collector / Monitoring Committee,
Office of the District Collector,
Pudukkottai District.

2.The Deputy Director,
Town and Country Planning Department,
Pudukkottai,
Pudukkottai District.

3.The Executive Officer,
Karambakudi Town Panchayat,
Pudukkottai District.



W.P.(MD)No.10565 of 2024

WEB COPY

4.The District Manager,
TASMAC,
Pudukkottai,
Pudukkottai District.

5.K.B.Durairaj : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents 1 to 4 to forthwith remove the unauthorised construction of TASMAC Shop No.6616, which is comprised in S.No.393/3 situated at Karambakudi, Pudukkottai on the basis of the petitioner representation dated 12.04.2024.

For Petitioner : Mr.B.Jameelarasu
For Respondents 1 to 3 : Mr.P.Thilak Kumar
Government Pleader
For Respondent No.4 : Mr.H.Arumugam
Standing Counsel

ORDER

[Order of the Court was made by R.SURESH KUMAR, J.]

The prayer sought for herein is for a Writ of Mandamus, directing the respondents 1 to 4 to forthwith remove the unauthorised construction of TASMAC Shop No.6616, which is



W.P.(MD)No.10565 of 2024

comprised in S.No.393/3 situated at Karambakudi, Pudukkottai on the basis of the petitioner representation dated 12.04.2024.

2.There is a TASMACHOP shop in Shop No.6616, located at S.No.393/3 at Karambakkudi Village, Pudukkottai District.

3.The building where this TASMACHOP shop is located is claimed to be the property of the fifth respondent ie., K.B.Durairaj with whom the TASMACHOP entered into an agreement and located the shop. At one point of time, one Kulandaisamy, who might be the cousin of Durairaj, had claimed from the TASMACHOP that the property belongs to him, as it has been allotted through the partition in his name. However, the concerned documents have been forged by the Durairaj and in that strength, he has entered into an agreement using the forged document, as if he is the owner of the said property. Considering these aspects and having verified with the same, the TASMACHOP has entered into an agreement with said Kulandaisamy at the time of renewal of the TASMACHOP license. The said agreement is called IMFL Shops – Rental Agreement entered into between the TASMACHOP and Kulandaisamy. Accordingly, Kulandaisamy, is the owner of the property with whom the TASMACHOP entered into lease agreement.



WEB COPY

W.P.(MD)No.10565 of 2024



4.At that juncture, because of this rival claim between Kulandaisamy and Durairaj, who is the fifth respondent herein, he has approached this Court by filing W.P.(MD)No.24544 of 2023, with a prayer of Mandamus to direct the District Manager, TASMAL to vacate the TASMAL shop No.6616 in the said property at survey No.393/3.

5.The said writ petition was disposed of, by an order of the learned Judge dated 27.11.2023, where the learned Judge has recorded that it was the claim of the third respondent Kulandaisamy that the property has been allotted to him in the partition and therefore, he is the owner of the property. Therefore, the learned Judge has observed that, since there has been a dispute between the land lord and the tenant, the petitioner can work out his remedy either before the Civil Court or Rent Control Authority. By making the said observation, the said writ petition filed by Durairaj was dismissed. Thereafter, whether any civil litigation has been set in motion by the said Durairaj is not known.

6.Be that as it may, now the present writ petition has been filed by one Marimuthu @ Samy Marimuthu. Though, he claim in his affidavit stating that he is the District Coordinator of Karuppu Ezhuthu kazhagam, Pudukkottai District and he claim to be a social



activist, in what kind of social activity he has involved and he has achieved is not stated in the affidavit and he has come out with a new prayer in the present writ petition that, the very premises where the TASMAC shop is located is an unauthorised building and therefore, the official respondents herein should take action to demolish the same in accordance with law.

7.It is interesting to note that in paragraph No.4 of the affidavit, the present petitioner has stated that the building was constructed only by Durairaj and he entered into agreement with the TASMAC.

8.How the petitioner came to know about the details as to who constructed the building has not been explained. Therefore, on having gone through the averments stated in the affidavit filed in support of this writ petition and by taking note of the earlier failure meted out by Durairaj, by filing unsuccessful writ petition to vacate the TASMAC shop from the premises which claimed to be the premises of Kulandaisamy, the present writ petition has been filed as, most probably, Durairaj would have set the present petitioner to project him as the Public Interest Litigant and file this writ petition.



WEB COPY

W.P.(MD)No.10565 of 2024



9.Whether the building in question where the TASMAC shop has been located belongs to the fifth respondent Durairaj or the said Kulandaisamy is a matter altogether to be decided by the Civil Court, as already the Writ Court by its earlier order has observed that those issues can be resolved by the Civil Court or the Rent Control Authority. Without approaching the Civil Court, neither Durairaj or Kulandaisamy can come forward to this Court to settle their issues to capture the building. Now, a third party has come before this Court, projecting himself as a Public Interest Litigant and has moved the present writ petition as a Public Interest Litigation.

10.Absolutely, there is no merit to interfere with the running of the TASMAC shop in the building concerned and the photographs has been shown before us which suggest that it may be one of the fittest location to have the TASMAC shop, as nearby there has been no inhabitation. When that being so, the personal enmity between Durairaj and Kulandaisamy cannot be settled in this Public Interest Litigation filed by the present petitioner as he has not approached this Court with genuine intention of Public Interest and there has been a proxy litigation by the said Durairaj. Therefore, for all these reasons, we are not inclined to entertain this writ petition.



WEB COPY



W.P.(MD)No.10565 of 2024

11.Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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

30.04.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



WEB COPY



W.P.(MD)No.10565 of 2024

To

1.The District Collector / Monitoring Committee,
Office of the District Collector,
Pudukkottai District.

2.The Deputy Director,
Town and Country Planning Department,
Pudukkottai,
Pudukkottai District.

3.The Executive Officer,
Karambakudi Town Panchayat,
Pudukkottai District.

4.The District Manager,
TASMAC,
Pudukkottai,
Pudukkottai District.



WEB COPY



W.P.(MD)No.10565 of 2024

R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

MR

ORDER MADE IN
W.P.(MD)No.10565 of 2024

30.04.2024