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W.P.No.13291 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2025

CORAM :

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.13291 of 2025

M/s TN Tourism Society Adyar
rep by its President S.Kalyan Saarang
S/o Sugesan
No.79, Injambakkam East Coast Road
Chennai 600 115

.. Petitioner

v.

1. The Commissioner of Prohibition
and Excise
Office of the Commissioner of
Prohibition and Excise Department
Chepauk, Chennai 600 005

2. The District Collector
Chennai District
Chennai 600 001

3. Thiru.Prem Kallat .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records in pertaining to the impugned order passed by the second respondent in R.C. No.L3/2744230/2024 dated 24.03.2025 and to quash the same as illegal arbitrary, ultra-vires.



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For Petitioner :: Mr.V.Karthikeyan for
Mr.M.Sathish Kumar

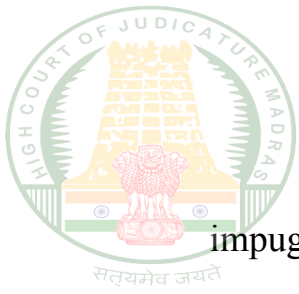
For Respondents :: Mr.E.Veda Bagath Singh
Special Government Pleader for
R1 & R2
Mr.S.R.Raghunathan for
Mr.T.Karthi for R3

ORDER

This writ petition has been filed challenging the impugned proceedings of the second respondent dated 24.03.2025.

2. Heard the learned counsels appearing for the parties.

3. The case of the petitioner is that they entered into a lease agreement with the third respondent on 24.04.2021 and the lease was granted for a period of seven years. Thus, according to the petitioner, the lease period will come to an end only in the year 2028. The petitioner is running the recreation club and wanted to start a FL-2 bar. An application was submitted before the second respondent and the second respondent, through the



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impugned proceedings dated 24.03.2025, rejected the application on the ground that the petitioner has to submit the renewal copy of the rental agreement from his land owner or in the alternative, to find out another place to run the bar.

4. The case of the third respondent is that the lease agreement is subject to renewal once in every eleven months and hence, at the end of eleven months, the lease expires and it continues only if the third respondent renews the lease. The learned counsel further submitted that the very object for which the petitioner society was constituted is not to run a bar and that according to the third respondent, running a bar in the subject property will result in an illegal activity. It was further brought to the notice of this Court that already a suit has been filed by the third respondent in O.S.No.34 of 2024 before the Sub Court, Alandur seeking for the relief of delivery of possession and for damages.

5. Apart from that, another suit has been filed in O.S.No.348 of 2023 against the third respondent seeking for the relief of permanent injunction



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not to interfere with the business run by the society. Thus, it is clear that the possession of the petitioner is now a litigious possession. In view of the above, it has to be seen whether the petitioner will be entitled for a FL-2 license.

6. This issue is no longer res integra and it was considered by this Court in W.P.No.11330 of 2025 and while disposing of the writ petition by order dated 17.06.2025, this Court held as follows:-

“9. It is not in dispute that the petitioner was a tenant under the 2nd respondent and based on the earlier agreement, the petitioner was utilising the property for running a Bar and an FL-2 license was issued, enabling the petitioner to serve liquor supplied by the TASMAL in the Bar. The 2nd respondent has terminated the tenancy and initiated proceedings before the Small Causes Court, which is pending in RLTOP No.46 of 2025 and has sought for the eviction of the petitioner.



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10. Under such circumstances, the earlier No Objection Certificate (NOC) granted in favour of the petitioner for the FL-2 license, becomes questionable.

11. The issue in hand is no longer res integra and is covered by an earlier judgment of this Court. The first judgment that can be relied upon is in the case of **S.Mohan Sambasivam vs. The Commissioner of Prohibition and Excise, Chepauk, Chennai reported in (1998) 1 CTC 573**. The second judgment is that of the Hon-ble Division Bench of this Court in **S.Ganesan vs. Assistant Commissioner Excise, Collectorate, Chennai and Another reported in (2000) 1 CTC 193.**



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12. The Hon-ble Division Bench after considering the entire law and issue, has held that in the absence of the continuation of the lease agreement and where the possession of the tenant has become litigious possession, the insistence for issuance of the license is unsustainable.

13. It was clarified that a tenant holding over or in juridical possession cannot be equated to that of a lawful possession, since juridical possession is a possession protected against wrongful dispossession, whereas lawful possession means possession permitted by the landlord to the tenant. Hence, the protection of law cannot enure in favour of the tenant whose agreement has been terminated and whose possession has become litigious by virtue of an eviction petition filed by the landowner.



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14. In light of the above discussion, the impugned proceedings of the 1st respondent dated 28.02.2025, is perfectly in order and there is absolutely no ground to interfere with the same.”

7. The above judgment will squarely apply to the case in hand. The very possession of the petitioner has now become a litigious possession and therefore, the petitioner cannot insist for continuance of FL-2 license. Therefore, the decision taken by the second respondent through the impugned proceedings dated 24.03.2025 cannot be faulted and it does not require the interference of this Court. Insofar as the dispute between the petitioner and the third respondent, the same will be agitated independently before the competent Court where the suits are pending. This case confines itself only to the running of the bar, for which the petitioner has sought for FL-2 license. The same has been rightly rejected by the second respondent. If ultimately the petitioner is able to find some other alternative place where there is no objection, it is left open to the petitioner to workout the remedy before the second respondent.



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8. This writ petition is disposed of in the above terms. Consequently,

W.M.P.No.14872 of 2025 is closed. No costs.

Index : yes/no
Neutral citation : yes/no

25.06.2025

SS

To

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and Excise
Office of the Commissioner of
Prohibition and Excise Department
Chepauk, Chennai 600 005
2. The District Collector
Chennai District
Chennai 600 001



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N.ANAND VENKATESH,J.

SS

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