



W.P.(MD)No.18037 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.11.2025**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

W.P.(MD)No.18037 of 2025

and

W.M.P(MD)No.13838 of 2025

R.Marudhupandi

... Petitioner

vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Senior Zonal Manager,
Tamil Nadu State Marketing Corporation Limited,
No.100, Anna Nagar,
Madurai – 20.

3.The District Manager,
Tamil Nadu State Marketing Corporation Limited,
Ramanathapuram District.

4.R.Saravanan

... Respondents

(R – 4 is impleaded vide order dated 15.09.2025
in W.M.P(MD)No.18907 of 2025)



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to shift the TASMACH shop bearing No.6805 running in the Government poramboke land in Survey No.360/69 situating in Old Krishna Theatre, Paramakudi Taluk, Ramanathapuram District to any other place of the city outskirts based on the petitioner's representation dated 21.06.2025 within the time stipulated by this Court.

For Petitioner : Mr.H.Lakshmi Sankar
for Mr.S.Vidhya Sagar

For Respondents : Mr.P.Thilak Kumar (R1)
Government Pleader

: Mr.S.Sivanesan (R2 & R3)
Standing Counsel

: Mr.N.Selva Adithya
for Mr.G.Prabhu Rajadurai

ORDER

(Order of the Court was made by **DR.ANITA SUMANTH, J.**)

This petition has been instituted in public interest, seeking a Mandamus directing the respondents to shift Tasmach shop bearing No.6805 ('shop/shop in question'), located in Survey No.360/69, Old Krishna Theatre, Paramakudi Taluk, Ramanathapuram District ('land in question'/'subject land'), to any other place on the outskirts of the city.



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2.The case of the petitioner is that the shop in question is located in Venthoni Village, Paramakudi Taluk, in the subject land which is a water course. The shop is proximate to a bus stop and a temple. It has been functioning since 2023, albeit without proper permissions or documentation.

3.Our attention is drawn to the *Tamil Nadu Liquor Retail Vending (In Shop and Bars) Rules, 2003* (in short 'Rules'), the *Tamil Nadu Prohibition Act, 1937*, the *Tamil Nadu Land Encroachment Act, 1905*, the *Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007* and the *Indian Easements Act, 1882* in support of the petitioner's submissions.

4.According to the petitioner, the land on which the Tasmac shop is situated, is a water body. Rental agreement dated 08.06.2022 was only for a period of twelve months and has expired in June 2023 itself. No extension has been granted by the authorities thereafter, and hence Tasmac cannot continue to run the shop now.



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5.We note that the Commissioner of Land Administration, Chennai (in short 'CLA') has issued proceedings dated 20.01.2023 in respect of the properties in Survey Nos.116, 117 and 360 (the property in question is a sub-division of Survey No.360) classifying the aforesaid lands as 'Vendhoni Varathukal Poramboke', essentially, a tank/waterbody/water course. The CLA records that the water body was under encroachment by 95 persons, one among them being Singathurai, with whom Tasmac has a rental agreement to locate the shop in question.

6.After a detailed inquiry, the CLA comes to the conclusion that all 95 occupants were encroachers; that the pattas obtained by them in 1995 under the banner of '*Vendhoni Group Anna Nagar, Annai Sathya Nagar Welfare Society*' before the Assistant Settlement Officer, were illegal; that there can be no reclassification of a water course for residential or private occupation.

7.Hence, at paragraphs 11 and 12 of the proceedings, the CLA directs the District Collector, Ramanathapuram to submit a factual report on the regularisation of encroachments along with a joint inspection report of the District Revenue Officer and the Executive Engineer, PWD



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(WRD) for further examination. He concludes stating that under the garb of a settlement, what has been done is encroachment, and it would have to be examined as to whether at all such an encroachment could be regularised.

8.To be noted that the proceedings dated 20.01.2023 have been accepted by 94 out of the 95 occupants of Survey Nos.116, 117 and 360, barring one Jothi, who has made a representation as against the same before the authorities. Hence, their very occupation of the property in question remains under a cloud, and the question of Tasmac entering into a rental agreement with one such occupant, is questioned in this Writ Petition.

9.Adding insult to injury, Tasmac has permitted the opening of a bar by R4 (impleaded on 15.09.2025) and R4, in his impleading petition, states that he has been granted a license for running the shop in question for the period 16.12.2023 to 31.12.2025.

10.The aforesaid statement is, however, erroneous, as a soft copy of the licence issued has been shown to us which reveals that what has been granted is only a licence for the bar attached to the shop and not



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the shop itself.

11. According to R4, he has deposited a sum of Rs.2,25,400/- and licence fee for a sum of Rs.1,12,700/-. He claims that the shop and bar have been functioning without any interruption.

12. At the time of admission of this Writ Petition, an interim injunction was granted and the same has been extended until further orders on 26.08.2025.

13. Mr.P.Thilak Kumar, learned Government Pleader appearing for R1 and Mr.S.Sivanesan, learned standing counsel appearing for Tasmac, advance the following submissions.

14. Mr.Thilak Kumar concurs with the petitioner that the proceedings of the CLA have attained finality and that only a representation has been made by one individual, Jothi that is pending consideration. He further reports, based on the instructions dated 09.10.2025 received from the Tahsildar that survey and inspection as ordered by the CLA, are on-going and necessary action is under consideration.



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15.Learned Government Pleader reiterates that the revenue records classify Survey Nos.116, 117 and 360 as a water course/waterbody and hence, the question of permitting, or even regularising the occupation of those lands does not arise. In this regard, he relies on G.O.Ms.No.97, Revenue and Disaster Management [LD-1(1)] Department, dated 21.02.2025, which imposes an absolute ban of residential encroachments in water bodies including marsh land/swamp and back waters, etc.

16.Learned counsel appearing for Tasmac, for his part, submits that the shop in question, along with bar, has been functioning for several years and they may be permitted to continue till such time finality is reached by the authorities regarding the legitimacy of the occupation of Singathurai.

17.We have heard all learned counsel and also perused the materials on record.

18.At the outset, and since Singathurai is not a party to this Writ Petition, we desist from making any observations in regard to his ownership of, or title to the land in question. However, it is an admitted



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position that, as per the proceedings dated 20.01.2023, the pattas granted to 95 occupants, including Singathurai, stand invalidated and are under a cloud now.

19.It is also admitted that order dated 20.01.2023 has attained finality and it is nearly three years since its issuance. In the interests of clarity of narration and in support of the conclusion, we extract the operative portions of the order as follows:

'10. In the instant case, the District Collector, Ramanathapuram has stated that based on the orders of the Director of Survey and Settlement passed in the proceedings 3rd read above, the Assistant Settlement Officer, Madurai has issued orders vide proceedings in Rc.No.2843/Paramakudi/95/Vendhoni Village, dated 6.7.95 by fixing the Ground Rent and issued Patta under Section 19-A of the T.N. Act XXVI of 1948 to the beneficiaries of the order of the Director of Survey and Settlement, Chennai dated 5.6.1995. The District Collector, Ramanathapuram has also stated that the lands in S.No.116, 117 and 360 measuring to an extent of 0.43.0, 0.68.5 and 0.93.5 hectares respectively were classified as "Varathukkal" during settlement and prior to settlement and the Survey Land Register proves the same. The beneficiaries are only encroachers of the lands, they have claimed patta only in the year 1995 under the banner of "Vendhoni Group Anna Nagar, Annai Sathya Nagar-Welfare Society" before the Assistant Settlement Officer, Madurai



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after realizing the fact, that they could not get patta thro' revenue department for the lands as they are water course and there is a barn for reclassification and to grant patta Since, the beneficiaries are only encroachers of the lands after 1948, Section 19-A of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 1948 (T.N. Act XXVI of 1948) would not be apply, the orders of the Director of Survey and Settlement and Assistant Settlement Officer are irregular and they might be corrected by invoking 'suo-motu' powers of the Commissioner of Land Administration u/s 7(d) and 7(c) of the Tamil Nadu Act XXVI of 1948.

11. In view of the above circumstances, under the powers vested under Section 7(d) and 7(c) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act XXVI of 1948 read with G.O.Ms. No. 714 CT & RE Department dated 29.6.1987, the order passed by the Director of Survey and Settlement in his proceedings Roc. D2/7972/95 dated 5.6.1995 and the orders of the Assistant Settlement Officer, Madurai passed in his Roc. 2843/Paramakudi/95/Vendhoni (village) dated 6.7.1995 respectively are hereby declared as null and void abinitio and accordingly, I hereby set aside the above orders of the Director of Survey and Settlement, Chennai as well as the Assistant Settlement Officer, Madurai.

12. Further, as regards the occupiers of the subject lands in question in S.No.116,117 and 360 at Venthoni village, Paramakudi Taluk, the District Collector, Ramanathapuram is directed to send the factual report on regularization of encroachment made on these lands along with joint inspection report of the District Revenue



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Officer and the Executive Engineer, PWD(WRD) for further examination as per the prevailing rules in force. Moreover, it is informed that under the garb of Settlement, what has been done in an encroachment regularization which has to be treated separately.'

20.A reading of proceedings dated 20.01.2023 makes it very clear that the lands in Survey Nos.116, 117 and 360 are classified in the revenue records as 'Vendhoni Varathukal Poramboke', which means that those lands are feeder channels/water courses/water bodies.

21.G.O.Ms.No.97, Revenue and Disaster Management [LD-1(1)] Department dated 21.02.2025 deals with regularisation of residential encroachments and issuance of free house site pattas and also lists circumstances where one-time relaxation may be considered in District Headquarters, Corporations, Municipalities and Town Panchayat. The circumstances under which relaxation of ban orders may be considered have been set out in clause 9. Clause 9B specifies categories of Poramboke lands where no regularisation shall be allowed, which read as follows:

*'9B. Type of Poramboke:-
No residential encroachments in the following category of lands to be regularised and no proposal for*



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regularisation shall be sent to the Government as well.

a. All type of waterbodies which include marsh land/swamp and back water, etc.,

b. Meikkal/Mandaveli/Eichchal Tharai Poramboke, etc.,

c. Forest lands including forest Porambokes though they are not declared as Reserved Forest.

d. Cantonment areas, Railway lands, etc belonging to Union Government.

e. Patta lands n the name of all religious institutions.

f. Temple Poramboke Lands.'

22.Clause 9B(a) thus imposes a complete ban on regularization of encroachments in all type of water bodies which include marsh, though we only note this aspect of the matter in the context of the lis before us. The question is as to whether, pending finality of the proceedings on-going pursuant to proceedings of CLA dated 20.01.2023, Tasmac can enter into an rental agreement in respect of one of the properties covered under the aforesaid proceedings. Our answer is in the negative, as the location of a Tasmac shop must, if at all, only be in a place legally permissible and no shop can be established in an area classified as a water body.

23.To reiterate, since the occupant of the subject premises is not before us, we make no observation regarding the legality or otherwise



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of his occupation, confining ourselves to the facts relating to the classification of the land in question. It is utterly unacceptable that Tasmac, being an instrumentality of the State, establish, and continue to operate a shop in land classified as a waterbody and that is unfit for occupation per the proceedings of the CLA, dated 20.01.2023.

24.Learned counsel for Tasmac points out that at the time when the rental agreement was executed, on 08.06.2022, the proceedings of the CLA were not in existence, which is correct. However, once proceedings dated 20.01.2023 came to be issued, the licence ought not to have been renewed or extended.

25.We are thus of the considered view that the present location of the Tasmac shop directly militates against the tone, tenor and findings in proceedings dated 20.01.2023 and hence, we accept the prayer for Mandamus.

26.It follows that the bar attached to the shop, run by R4, is also without any legal sanction and cannot be permitted to continue. That apart, and on the physical features of the shop itself, we are shown some photographs to indicate that the bar is only a tin shed. This is contrary to



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the provisions of Rule 10(3) of the Rules, that mandates that every bar shall be housed in a pucca building and that no part thereof shall be thatched either on the sides or on the roof. The pictures clearly indicates that the bar is not in a pucca building and that the structure is temporary and flimsy.

27. Additionally, Section 62 of the Indian Easements Act, 1882, provides that the right to a licensee would be deemed to be revoked when, from a cause preceding the grant, the right of the grant itself becomes impaired or invalid.

28. In the present case, since we have held that the establishment of the Tasmac shop itself is impermissible, it follows, as a sequitur, that the operation of the bar attached thereto is also illegal and cannot continue.

29. R4 is at liberty, in light of this order, to approach the Tasmac for refund of any amount paid by him towards licence fee or deposit, if he is so entitled, for the unexpired portion of the licence period.



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30.For the aforesaid reasons, Mandamus is issued as prayed for, and this Writ Petition is allowed. Let the needful be done by the authorities forthwith. No costs. Consequently, connected Miscellaneous Petition is closed.

[A.S.M.J.] & [C.K.J.,]
12.11.2025

NCC :Yes/No
Index :Yes/No
Internet :Yes
ps

To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
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DR.ANITA SUMANTH, J.
AND
C.KUMARAPPAN, J.

ps

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