

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2015

C O R A M:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.A. No.981 of 2015
and
M.P.No.1 of 2015

1. The Secretary to Government,
Government of Tamil Nadu,
Home Department,
Fort St. George, Chennai.9.
 2. The Commissioner of Police,
Chennai City,
Office of the Commissioner of Police,
Vepery, Chennai.
 3. The Assistant Commissioner of Police,
Triplicane Range,
Chennai 600 005.
 4. The Inspector of Police,
D-2 Anna Salai, Chennai.
- Appellants

C. Muthupandian @ Muthupandi Respondent

Prayer:-Appeal filed under Clause 15 of Letters Patent to set aside the order dated 15.04.2015 passed in W.P. No. 22727 of 2014.

WP.NO.22727 of 2014:This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified Mandamus, to call for records issued by the 2nd respondent bearing R.C.No.E3(1)101/33915/ 2013 dated 21.7.2014 and quash the same and consequently direct the 2nd respondent to issue Public Resort Licence as requested for in Application dated 3.1.2014

For appellants : Mr. P.S.Sivashanmugasundaram
Spl. Govt. Pleader

For respondent : Mr.AR.L. Sundaresan
Sr. Counsel
for
Mr. R. Rajeshkumar

J U D G M E N T

(delivered by SATISH K. AGNIHOTRI,J.,)

The respondent herein/writ petitioner, being aggrieved by the order dated 21 July, 2014, wherein, his application seeking grant of public resort licence to conduct cultural programmes at No.100 G.P. Road 2nd floor, Anna Salai, Chennai 2, was rejected on the ground that there is no sufficient parking space and thus, vehicles coming to the venue could impede traffic flow, filed the instant writ petition being W.P. No.22727 of 2014. The learned single Judge, considering all aspects of the matter, held that the impugned order dated 21 July, 2014 is unsustainable and accordingly, quashed the same. Thereagainst, the respondents are before us by way of this intra-court appeal.

2 The learned Special Government Pleader appearing for the appellants submits that the place, for which, licence was sought by the respondent/writ petitioner, does not have parking space and as such, the public road, which has only 20' width, may be choked with parking made by the visitors of that place. It is further contended that the police have full authority to regulate the parking in front of the said public resort.

3 The respondent/ writ petitioner had filed an affidavit of undertaking before us clearly undertaking to conduct only limited cultural programmes and that no parking will be permitted on the road in question. It is further stated in the undertaking that the respondent/writ petitioner has sufficient space for parking of vehicles by the visitors. His affidavit of undertaking reads as under:-

" I undertake to strictly conduct the following Indian Cultural dances only:

- a) Bharathanattiyam
- b) Rajathani Dance
- c) Punjabi Folk Dance
- d) Indian Folk Dance
- e) Shivan Dance
- f) Nagin Dance
- g) Gujarathi Dance

- h) Tamil Nadu Village Folk Dances
- i) Sankarabaranam (Telugu Folk Dance).

3. I further undertake to strictly prohibit smoking and drinking alcohol within the premises where the Indian Cultural Dances would be held. Further even an intoxicated person would be strictly prohibited to enter the dance venue.

4. I further undertake to strictly enforce timings and undertake not to conduct Indian cultural dances beyond the time permissible.

5. I submit that I have installed CCTV camera throughout the venue and undertake to allow the appellant herein to inspect the Recordings of the CCTV camera for checking any violation on my part.

6. I submit that the venue is properly secured by watchman and the dancers are given full security and would be dropped by car after the show.

7. I undertake to not violate any condition stipulated by the Appellants herein as licence condition.

8. I state that the venue is 1100 sq.ft. Small size auditorium having 55 seating capacity and is under CCTV surveillance and the dance area is fully secured by security personals, audience is strictly prohibited to enter the dance area and further more the dance area is fully barricaded by steel rods so as prevent the audience from entering the dance area. The dance area and audience area are separate."

4 We have examined the case from all angles. Indisputably, there is no condition to insist parking space before granting licence to have public resort as sought by the respondent/writ petitioner. However, parking is necessary as the visitors to the place in question are not entitled to cause nuisance to traffic or obstruct the free flow of traffic in the road.

5. It is stated by the learned Special Government Pleader appearing for the appellants that the said road is a market area having shops on both sides. If the parking is not regulated, there would be chaos, which may lead to law and order problem.

6 The learned Single Judge has examined the question of law as to whether licence to have public resort may be declined on the ground that there is no sufficient parking space. The issue came up for consideration and Rule 28(8) of the Rules made under Sections 36 and 39 of the Madras City Police Act, wherein having sufficient parking place was condition precedent, was held unconstitutional by order dated 23rd July,

1984 made in W.P.Nos.2406 and 2407 of 1984. Thus rejection of application for grant of licence on the above account was held as unsustainable.

7 We have examined all provisions and we are in agreement with the view taken by the learned Single Judge, which is in consonance with the statutory provisions.

8 We make it clear that the law and order problem is the concern of the police. The power of the police is not restricted in any way to regulate the traffic. It is informed that the width of the public road in front of the premises is only 20' and as such, no parking can be permitted.

9 The contention of the learned Special Government Pleader for the appellants deserves acceptance. We accordingly, direct the appellants as well as the respondent/writ petitioner not to permit the parking of the vehicles on the road for more than five minutes.

10 Thus the impugned order passed by the learned Single Judge is modified to the above extent. The writ appeal stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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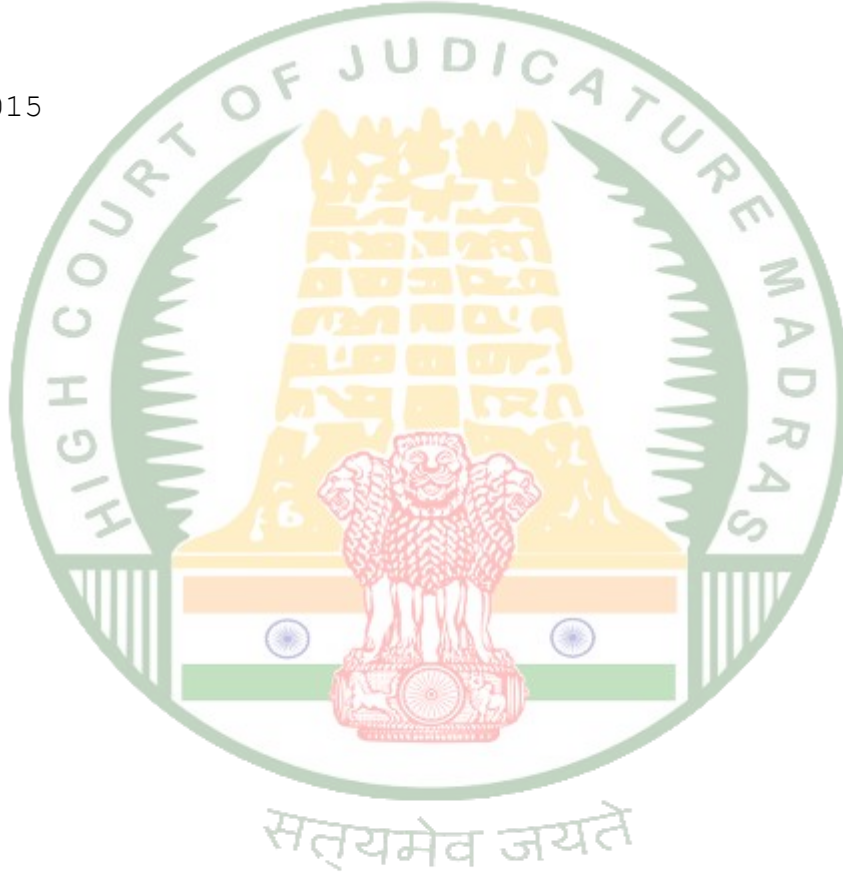
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