

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.27820 of 2013

And

M.P.Nos.2 and 3 of 2013 and 1 of 2015

D.Swarnalatha

... Petitioner

Vs.

1.The Government of Tamilnadu,
Rep. by its Principal Secretary,
Home (Cinema) Department,
Fort St.George, Chennai - 9.

2.The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai - 5.

3.The District Collector,
Dharmapuri District,
Collectorate Complex, Dharmapuri - 5.

4.G.Janardhanan

... Respondents

Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent relating to his order in G.O.(D) No.676 dated 26.08.2013 quash the same.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.R.Rajeswaran for R1 to R3
Special Government Pleader
Mr.T.Gowthaman for R4

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O R D E R

The petitioner has filed this writ petition challenging the order passed by the Government in G.O.(D) No.676 dated 26.08.2013. By the said order, the revision petition filed by the fourth respondent, the licensee of Jayashree Theatre, Dharmapuri District was allowed and the order passed by the licensing Authority namely, the District Collector, Dharmapuri was set aside and the District Collector was directed to renew

licence for a period of three years from 01.03.2012 to 28.03.2015.

2.The primary ground on which the impugned order has been challenged is by contending that the Revisional Authority namely, the first respondent without issuing notice to the petitioner has passed the order.

3.The learned counsel appearing for the respondents do not dispute the decision, but would submit that before the Collector, the petitioner was the objector and he raised all the points and the petitioner is not entitled to rely upon the un-registered document for the purpose of claiming right over the Theatre and therefore, the Revisional Authority has rightly held that the objection made by the petitioner is without any basis.

4.However, as rightly pointed out by the learned counsel appearing for the petitioner, the power exercised by the Revisional Authority under Rule 47 A of the Tamilnadu Cinemas (Regulation) Rules, 1957 empowers the Authority to consider all aspects of the matter and the enquiry in that regard is not a mere formality. However, if the petitioner is the objector before the District Collector, then it goes without saying that the objector should have been heard by the first respondent before an order has been passed. This fundamental error has resulted in serious violation of principles of natural justice. Therefore, on the short ground, this Court is inclined to interfere with the impugned order. Hence, this writ petition is allowed and the impugned order is set aside and the matter is remanded to the first respondent for fresh consideration, who shall issue notice to the petitioner as well as the fourth respondent, afford an opportunity of personal hearing to the parties and then, pass a detailed speaking order on merits and in accordance with law.

5.It is submitted by the learned counsel appearing for the fourth respondent that when the matter was pending before the District Collector, licensing Authority, the fourth respondent had the benefit of 'C' form licence based on which he is running the Theatre. Therefore, it is submitted that pending consideration of the revision petition by the first respondent in terms of the direction issued by this Court in this order, the fourth respondent may be permitted to run the Theatre for which purpose a direction may be issued to the District Collector to issue necessary e-permission.

6.The submission made by the fourth respondent is acceptable since till the District Collector passed the order, the fourth respondent had the benefit of e-permission. Therefore, the balance of convenience is in favour of the fourth respondent and such position should be permitted till the Revision Authority

finds a final position in this matter. Accordingly, there will be a direction to the District Collector, Dharmapuri District/ the third respondent to grant e-permission to the fourth respondent to run the Cinema Theatre namely, Jayashree Theatre, Dharmapuri till final orders are passed by the first respondent in terms of the directions issued by this Court. The first respondent shall endeavour to complete the enquiry and pass final orders in the revision petition within a period of three months from the date of receipt of a copy of this order.

7.In the result, the writ petition is allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1.Principal Secretary,
Home (Cinema) Department,
Fort St.George, Chennai - 9.
- 2.The Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai - 5.
- 3.The District Collector,
Dharmapuri District,
Collectorate Complex,
Dharmapuri - 5.

+lcc to Mr.R.Subramanian, Advocate, S.R.No.68960
+lcc to Mr.T.Gowthaman, Advocate, S.R.No.68650
+lcc to the Government Pleader, S.R.No.68821

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skv(CO)
srg(06/01/2016)