

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2016

C O R A M

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.39538/2015 & MP.Nos.1&2/2015

M/s.K.S.Theatres Screen 1 & 2
rep. By its Proprietor K.Raja

.. Petitioner

Versus

1.The District Collector
Namakkal District, Namakkal.
Tamil Nadu.

2.The Electrical Inspector
Namakkal, Namakkal District.

3.The Executive Engineer
Public Works Department
Planning and Design Circle
Namakkal, Namakkal District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified mandamus calling for the records of the impugned order dated 12.12.2015 in Na.Ka.No.22429/2014/M2 passed by the District Collector, Namakkal District/the 1st respondent herein relating to refusal of either permanent license in Form 'C' or temporary license in Form "E" and to quash the same as illegal, arbitrary, unconstitutional, ultra-vires of the Constitution with a consequential direction to issue Form "C" by the 1st respondent.

For Petitioner सत्यमेव जयते ... Mr.S.Sathya Narayanan

For Respondents ... Mr.R.Vijayakumar, AGP

ORDER

Heard the learned counsel for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents and with their consent, the writ petition is taken up for final disposal.

2 The petitioner is running a Cinema House having 2 screens and he has sought for issuance of a writ of certiorarified mandamus to quash the order passed by the 1st

respondent dated 12.12.2015 and for a consequential direction to issue "C" Form License for the petitioner's Cinema House.

3 The case is having a chequered history and it appears that at the behest of certain third parties, the petitioner's request for grant of "C" Form License was delayed and the petitioner had to approach this Court by filing a writ petition in WP.No.30611/2015 which was disposed of by an order dated 29.09.2015 giving certain directions to the petitioner. The petitioner would state that he had complied with all the directions and the competent authority to certify the correctness of the work done by the petitioner, being the 3rd respondent herein, also inspected the Cinema House and submitted a report to the District Collector. However, since there was a stalemate in the matter and in the interregnum, a Public Interest Litigation was filed in WP.No.37522/2015 which was dismissed by the Hon'ble First Bench of this Court by order dated 25.11.2015 and this also led to delay in the petitioner's case being considered by the Competent Authority/District Collector. Ultimately, the petitioner having invested substantial sums of money, was incurring huge financial loss and therefore, while reiterating his request for grant of "C" Form License, the petitioner sought for grant of "E" Permit, so that he will be entitled to run the Cinema House till "C" Form License is issued. When this request was made by the petitioner on 11.12.2015, the 1st respondent passed the impugned order dated 12.12.2015 rejecting the request stating that the petitioner has not rectified the defects pointed out in the report of the 3rd respondent. Challenging the said order, the petitioner filed this writ petition and notice was issued to the respondents returnable on 05.01.2016. Earlier, when the matter came up for hearing on 15.12.2015, this Court, taking note of the submission of the learned counsel for the petitioner that the defects pointed out by the 3rd respondent, have been rectified by the petitioner, directed an inspection to be conducted by the 3rd respondent to verify the correctness of the statement submitted by the petitioner. In accordance with the said directions, the petitioner/theatre has been inspected and the 3rd respondent has filed a detailed report dated 04.01.2016 along with annexures and supportive documents. From a perusal of the report, it is clear that the petitioner has rectified all the defects and the report is now pending consideration before the 1st respondent. That apart, during the interregnum, the 1st respondent has also granted "E" permit to the petitioner and the petitioner/theatre is functioning as on date.

4 In the light of the above, the writ petition is allowed and the impugned order dated 12.12.2015 passed by the 1st respondent is set aside and the 1st respondent is directed to take note of the report of the 3rd respondent dated 04.01.2016, from which it appears that the defects have been rectified by the

petitioner and pass appropriate orders on the petitioner's request for grant of "C" Form License. Till orders are passed, the petitioner is entitled to run the theatre with "E" permit already issued and shall be renewed, if need arises. The above direction shall be complied with by the 1st respondent within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

AP

To

- 1.The District Collector
Namakkal District, Namakkal, Tamil Nadu.
- 2.The Electrical Inspector, Namakkal, Namakkal District.
- 3.The Executive Engineer, Public Works Department
Planning and Design Circle, Namakkal, Namakkal District.

1 cc to Government Pleader, Sr. 6087

1 cc to M/s.S. Sathya Narayanan, Advocate, Sr. 1264

W.P.No.39538/2015

GJ (CO)
kk 11/2

सत्यमेव जयते

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