

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.12.2017
CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
And
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.2445 of 2013
And
M.P.No.1 of 2013

M/s.Balaji Theatre,
Rep by Managing Partner
R.Kaliyaperumal @ Perumal ... Appellant
Vs.

- 1.The Union Territory of Puducherry,
Rep by its Chief Secretary,
Secretariat, Puducherry.
- 2.The District Magistrate-cum-Licensing Authority,
Government of Puducherry,
Office of the District Magistrate,
Saram, Puducherry.
- 3.The Revenue Officer,
Office of the District Magistrate,
Saram, Puducherry.
- 4.K.Ramesh ... Respondents

Prayer:Writ appeal filed under Clause 15 of the Letters Patent
Appeal against the order dated 04.12.2013 made in W.P.No.33140
of 2013.

Prayer in WP.No.33140/13: Praying to issue a Writ of Certiorari
calling for the records of the impugned notice passed by the 2nd
respondent herein in NO.1951/DM/D1/ 90-11 dated 25.10.2013 which
is signed by the 3rd respondent and quash the same

For Appellant : Mr.T.R.Rajagopalan
Senior Counsel
for M/s.D.Ravichander

For Respondent Nos.1 to 3: Ms.V.Usha
Additional Government Pleader
(Puducherry)

For Respondent No.4 : Mr.V.Manohar

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

This intra court appeal is directed against the order dated 04.12.2013 in W.P.No.33140 of 2013 whereby and whereunder the learned Single Judge while dismissing the writ petition directed the statutory Authority to consider the explanation submitted by the appellant to the show cause notice and to pass a detailed order.

BRIEF FACTS:

2.The appellant is a firm. The appellant obtained a licence from the District Magistrate, Pondicherry in his capacity as the Licensing Authority under the Cinematograph Act, for exhibiting films. The licence was granted to the firm.

3.The fourth respondent who is stated to be a Partner of the firm submitted a representation before the Licensing Authority on 17.10.2013 requesting to cancel the licence on account of certain disputes in connection with the business.

4.The Licensing Authority on receipt of the representation issued a notice to the appellant dated 25.10.2013 calling for the remarks. The Managing Partner who is representing the appellant submitted a detailed reply on 31.10.2013. Thereafter, the District Magistrate issued a notice of enquiry to the appellant. The appellant immediately on receipt of the notice of enquiry filed a writ petition to quash the notice issued by the statutory Authority dated 25.10.2013 on the ground that the District Magistrate has no jurisdiction to entertain a complaint of this nature.

5.The learned Single Judge was of the view that the Licensing Authority who is empowered to renew the licence is entitled to consider the objection submitted by a Partner of the firm. The learned Single Judge therefore, dismissed the writ petition and directed the Licensing Authority to consider the objection and pass a speaking order. The order passed by the writ Court is under challenge in this intra court appeal.

SUBMISSIONS:

6.The learned Senior Counsel for the appellant by placing reliance on the Pondicherry Cinema (Regulation) Rules, 1996 and more particularly Rule 27 submitted that the representation submitted by the fourth respondent does not make out a case for adjudication by the Licensing Authority, even while renewing the licence. According to the learned Senior Counsel, the Licensing Authority without jurisdiction entertained the complaint from the fourth respondent and issued notice to the appellant. It was further contended that the function of the Licensing

Authority is only to renew the licence and he is concerned only with compliance of the Cinematograph Act and the Rules made thereunder.

7.We have heard the learned Additional Government Pleader on behalf of the respondents 1 to 3 and the learned counsel for the fourth respondent.

ANALYSIS:

8.The licensee is a firm. The Licensing Authority on receipt of a representation from the fourth respondent, who is a partner of the licenced firm issued notice to the appellant to submit its explanation. In the said notice it was specifically stated that notice was issued in connection with the renewal of the licence. It is a matter of record that on receipt of the notice, the appellant submitted reply on 31.10.2013. In order to give a personal hearing, the District Magistrate called upon the appellant to appear before him on 15.11.2013. Immediately notice was challenged before the learned Single Judge.

9.The substantial contention of the learned Senior Counsel pertains to the manner in which the complaint was entertained by the District Magistrate. According to the learned Senior Counsel, the question of considering the objection would arise only when an application is submitted for renewal of licence. Since the licence for the year 2013 - 2014 would expire only on 31.03.2014, the District Magistrate was not correct in entertaining the complaint lodged by the Partner and calling upon the licensee to submit explanation.

10.The documents available on record would indicate that the licence of the appellant was renewed upto 31.03.2014. However, when a complaint was received from a Partner of the firm, the District Magistrate issued notice to the appellant in his capacity as the Managing Partner of the firm to submit the response with respect to the allegations. It is true that the consideration of the said complaint would arise only when the renewal application is filed. However, the fact remains that even before submitting the application for renewal, the statutory Authority called for explanation from the appellant.

11.After hearing the learned Senior Counsel for the appellant, the learned counsel for the fourth respondent and the learned Additional Government Pleader for the respondents 1 to 3, we are of the view that interest of justice would be subserved by giving liberty to the appellant to submit an application for renewal of licence. Such a course is necessary due to the fact that as on today, there is no licence in favour of the appellant.

12.We therefore, give liberty to the licensee to make an application for renewal of the licence. Such an application shall be made within a period of fifteen days from the date of receipt of a copy of this judgment. The Licensing Authority on receipt of such application for renewal of licence shall issue notice to all the Partners of the firm including the fourth respondent. It is open to the Partners to submit their views before the Licensing Authority. The Licensing Authority shall consider the objections and must pass an order on merits and in accordance with law. It is needless to point out that an opportunity of personal hearing shall also be given to the parties. In case application is not made as indicted above, it is open to the Licensing Authority to proceed further and pass appropriate orders relating to the licence.

13.The intra court appeal is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS VII)

//True copy//

Sub Assistant Registrar

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To

1. The Chief Secretary,
The Union Territory of Puducherry,
Secretariat, Puducherry.
- 2.The District Magistrate-cum-Licensing Authority,
Government of Puducherry,
Office of the District Magistrate,
Saram, Puducherry.
- 3.The Revenue Officer,
Office of the District Magistrate,
Saram, Puducherry.

+1cc to Mr.V.Manohar, Advocate SR.No.86138
+1cc to Mr.D.Ravichander, Advocate SR.No.87026

W.A.No.2445 of 2013
And
M.P.No.1 of 2013

NRI (CO)
GN (05/01/2018)