

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.19347 of 2003

Thiru Mani Chettiar

...Petitioner

Vs

The Collector of Cuddalore
Collector's Office
Cuddalore.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records in Na.Ka.No.C3/64855/2000 dated 23.04.2002 including the order passed in C3/4045/2001 dated 19.06.2003 on the file of the respondent and quash the same.

For petitioner : Mr.Kingston Jerald
for Mr.S.K.Rakhunathan

For respondent : Mr.S.Pattabiraman
Govt.Advocate

O R D E R

This writ petition has been filed seeking a writ of certiorari calling for the records in Na.Ka.No.C3/64855/2000 dated 23.04.2002, including the order passed in C3/4045/2001 dated 19.06.2003 on the file of the respondent and quash the same.

2. The factual matrix of the case is as under:

[a] One Muthukumaraswami Chettiar was the owner of 'Kamalam Theatre' in Cuddalore District and he was the holder of the licence in Form "C" that was issued under the provisions of the Tamil Nadu Cinema (Regulations) Act, 1955 (for brevity "the Act") The Deputy Tahsildar, Cuddalore, conducted a surprise inspection of the cinema theatre on 13.08.2000 and observed certain irregularities, based on which, he submitted a report to the District Collector. The District Collector issued a show

cause notice dated 21.09.2000 to Muthukumaraswami Chettiar calling for his explanation. Muthukumaraswami submitted his explanation dated 18.12.2000 contending that he has rectified the defects. A further report was called for from the Revenue Tahsildar, who submitted a report dated 09.09.2001. On 01.03.2002, Muthukumaraswami Chettiar died.

[b] The District Collector considered the materials that were submitted to him and passed the order dated 23.04.2002 by rejecting the plea of Muthukumaraswami Chettiar and suspending the licence for a period of five days u/s 9(2) of the Act. In the footnote of the order, it is clearly stated that the aggrieved person can file an appeal within 30 days before the Commissioner of Land Administration (Additional Commissioner, Cinema). Since Muthukumaraswami Chettiar had died in the meantime, no appeal was preferred. There was a dispute between the heirs of Muthukumaraswami Chettiar, which ultimately got resolved by the judgment of the Sub Court, Cuddalore in O.S.No.22 of 2003 dated 07.02.2003. Mani Chettiar, the son of Late Muthukumaraswami Chettiar obtained temporary licence and opened the theatre on 05.05.2003. The District Collector, by order dated 27.05.2003, directed the implementation of the earlier order dated 23.04.2002 and called upon Mani Chettiar to close the theatre from 15.06.2003 to 19.06.2003. Mani Chettiar gave a representation dated 09.06.2003 contending that the irregularities were committed at the time when his father was running the theatre and that the theatre itself was closed for a long time after his demise and it was re-opened only on 05.05.2003 and therefore, he prayed to the District Collector to defer the implementation of the five day closure order. Accepting the plea, the District Collector, by order dated 19.06.2003, has directed closure of the theatre from 15.07.2003 to 19.07.2003. Thus, on getting breathing time, Mani Chettiar had filed the present writ petition on 14.07.2003 challenging the order dated 23.04.2002 and 19.06.2003 and has obtained stay, which he is enjoying till now.

3. In the considered opinion of this Court, against the order dated 23.04.2002, an appeal lies before the Additional Commissioner of Cinemas, Chennai, which remedy was not availed, obviously, because Muthukumaraswami had died on 01.03.2002. However, after Mani Chettiar obtained temporary licence in his name, he started operating the theatre from 05.05.2003. When the District Collector passed the order dated 27.05.2003 for implementation of the earlier order dated 23.04.2002 directing that the theatre should be closed from 15.06.2003 to 19.06.2003, Mani Chettiar gave a representation dated 09.06.2003 requesting the District Collector to defer the implementation of order of closure for five days by two months. Accepting this plea, the

District Collector, by his order dated 19.06.2003, deferred the closure and directed that the theatre should be closed from 15.07.2003 to 19.07.2003. Having thus obtained an order, it is not open to Mani Chettiar to challenge the same in the writ petition, as it was an order passed on consent. Therefore, in the considered opinion of this Court, this writ petition is devoid of merits and liable to be dismissed.

4. However, since the theatre was closed for a long time after the demise of Muthukumaraswami Chettiar upto 05.05.2003, the authorities shall not insist upon the petitioner to symbolically close down the theatre for another five days in respect of the allegations relating to the order dated 23.04.2002. However, if the authorities find that there is a further violation or non-compliance by Mani Chettiar, it is open to the authorities to take action afresh against the theatre.

In the result, this writ petition is dismissed with the above observations. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

The Collector of Cuddalore
Collector's Office
Cuddalore

सत्यमेव जयते

W.P No.19347 of 2003

+1cc to Mr.Rakhunathan, Advocate, S.R.No.625

+1cc to the Government Pleader, S.R.No.901

VSN(CO)
RS(03/02/2017)

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