



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.A(MD)No.533 of 2017

and

CMP (MD)Nos.4527 and 9185 of 2017

K.V.R.Kannan : Appellant / 4th respondent

Vs.

1.K.V.R.Gajendran : Respondent/ Petitioner

2.The Principal Secretary to Government,
Home (Cinema) Department,
Secretariat,
Chennai-600 009.

3.The Additional Commissioner (Cinemas),
Ezhilagam, Chepauk,
Chennai-600 005.

4.The District Collector,
Madurai District,
Madurai.

: Respondents / Respondents 1 to 3

PRAYER: Writ Appeal is filed under Section 15 of the Letters Patent, against the order, dated 18.04.2017 made in W.P.(MD)No.2143 of 2011 on the file of this Court.

Prayer in WP(MD). 2143/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of CERTIORARIFIED MANDAMUS calling for the records of the first respondent relating to G.O.(D).No. 1259 Home (Cinema) Department dated 23/12/2010 confirming the orders dated 29/12/2009 of of the Additional Commissioner (Cinemas), Chennai and the orders dated 21/08/2009 of the District Collector, Madurai and quash the same and consequently direct the third respondent to renew the C form licence of theatre Midland as per the application made by the petitioner within a specified time frame that may be fixed by this Honourable Court.

For Appellant : Mr.M.V.Venkataseshan

For R-1 : Mr.S.Visvalingam

For R-2 &R-3 : Mr.A.Muthu Karuppan

Additional Government Pleader



JUDGMENT

(Judgment of the Court was made by K.KALYANASUNDARAM, J)

This writ appeal is directed against the order of the learned single Judge made in W.P.(MD)No.2143 of 2011, dated 18.04.2017.

2.Heard Mr.M.V.Venkataseshan, learned counsel for the appellant, Mr.S.Visvalingam, learned counsel for the first respondent, Mr.A.Muthu Karuppan, learned Additional Government Pleader for the respondents 2 & respondents 3 and perused the materials available on records.

3.The appellant and the first respondent are blood brothers and their father K.V.Rasu Thevar constructed a theatre called 'Midland Theatre' in Madurai and the 'C' Form license was issued in the name of partnership firm. The said K.V.Raju Thevar was the Managing Partner. After his demise, the appellant and the first respondent entered into an agreement on 18.04.2005, in and by which, the appellant was permitted to run the theatre for a period of five years between 13.04.2004 and 13.04.2009. After expiry of the time, it was the turn of the first respondent to operate the theatre for five years.

4.Indisputably, the appellant was in the management of the theatre as per agreement till 13.04.2009 and when the turn of the first respondent comes, the appellant chose to surrender the license. It is seen that the first respondent applied for renewal of license, which was rejected by the District Collector. Challenging the same, appeal and revision were preferred to the second and third respondents respectively. Since they were rejected, challenging the orders, the first respondent filed the writ petition. The writ Court allowed the writ petition and remitted the matter to the District Collector, for fresh consideration. Aggrieved over the same, the present writ appeal has been filed.

5.According to the appellant, if the license is in the name of more than one person, the renewal application shall be made by all the persons. In the event of any one of the parties did not join, renewal application cannot be entertained by the authorities, by placing reliance of the decisions in 1972 (2) MLJ 566 (*V.G.Balasundaram vs. V.B.Gopalakrishnan*) and 1977-1-MLJ 116 (*A.V.M.Theatre, Andipatti vs. State of Tamil Nadu*).

6.Per contra, the learned counsel for the first respondent submitted that the principles laid down in the judgments cited by the appellant are not applicable to the present facts of this case for the simple reason that the licensee is the partnership firm and not the individuals.

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7.It is to be noted that the writ Court in para 6 of the order



observed that the first cited Division Bench decision is not applicable to the facts of this case for the reasons recorded therein. The same view was taken by a single Judge in the second cited judgment. We are in agreement with the view taken by the learned single Judge.

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8. Further, it is to be seen that a direction has been issued to the District Collector, Madurai to consider the application for renewal, based on the agreement entered between the appellant and the first respondent, dated 18.04.2005 in accordance with law. The execution of the agreement is not in dispute, but it is contended by the learned counsel for the appellant that the writ petitioner had made some pinpricks, due to the reason that the appellant surrendered the licence.

9. In the light of the above facts, we find no merits in this appeal. Accordingly, the writ appeal fails and the same is dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Home (Cinema) Department,
Secretariat,
Chennai-600 009.

2. The Additional Commissioner (Cinemas),
Ezhilagam, Chepauk,
Chennai-600 005.

3. The District Collector,
Madurai District,
Madurai.

+1cc to Mr. S. VISVALINGAM, Advocate, SR. 88722

+1cc to Mr. M. V. VENKATASESHAN, Advocate, SR. 88749

+1cc to M/S. Special Government Pleader, SR. 89117

W.A (MD) No. 533 of 2017
22.11.2017

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