



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P. (MD) .No.2143 of 2011

K.V.R.Gajendran

.. Petitioner

Vs.

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.

4.K.V.R.Kannan
(R4 impleaded vide order
dated 08.08.2011 in
M.P. (MD) No.1 of 2011)

... Respondents

Petition filed under Article 226 of the Constitution of India 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 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 Court.

For Petitioner

:Mr.S.Visvalingam

For Respondents 1 to 3

:Mr.S.Kumar

Additional Government Pleader

For 4th Respondent

:Mr.M.V.Venkateshan

ORDER

Aggrieved by the rejection of 'C' Form Licence relating to Midland Theatre in Madurai, the petitioner is before this Court.

2.It is not in dispute that the cinema theater was constructed by the father of the petitioner and the fourth



respondent one K.V.Raju Thevar, and after the demise of the said K.V.Raju Thevar, the petitioner and the fourth respondent became joint owners of the said theater. Therefore, 'C' Form Licence of the said theater was transferred jointly in their names by the proceedings of the District Collector, Madurai, dated 09.11.1985. Thereafter, the petitioner and the fourth respondent entered into a deed of partnership which remains unregistered on 01.04.2000 for running the said theatre. It is stated that as per the agreement entered into between the petitioner and the fourth respondent on 18.04.2005, the fourth respondent was to run the said theatre for a period of five years between 13.04.2004 to 13.04.2009 and from 13.04.2009, the petitioner became entitled to run the theatre. The said agreement is admitted. In the meanwhile, 'C' Form Licence issued to said theatre was expired and hence, the petitioner has applied for renewal of the same. However, the fourth respondent has objected for the renewal. Based on the said objection, the District Collector, Madurai, namely, licensing authority had rejected the request for renewal on the ground that 'C' Form Licence having been issued in the names of two persons jointly, its renewal could be applied for and obtained only in the names of those two persons. Challenging the same, the petitioner filed an appeal and a further revision before the second and first respondents respectively. The said appeal and a revision have been dismissed by the statutory authorities which is impugned in this writ petition.

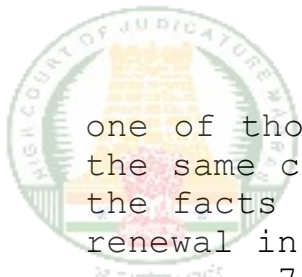
3.I have heard Mr.S.Visvalingam, learned counsel for the petitioner and Mr.M.V.Venkataseshan, learned counsel for the fourth respondent and Mr.S.Kumar, learned Additional Government Pleader for the respondents 1 to 3.

4.The agreement between the petitioner and the fourth respondent dated 18.04.2005 is not in dispute. The fact that the fourth respondent had the benefit of said agreement and ran the theatre till 13.04.2009 is also not in dispute. The fourth respondent has however taken advantage of the provision of the Rule framed under Cinematograph Act, 1952 and chosen to object for renewal of the licence. However, the fourth respondent has not denied the agreement dated 18.04.2005. He has also not denied that he had the benefit of the said agreement. Therefore, the fourth respondent is strictly estopped from objecting to the grant of renewal of 'C' Form Licence.

5.Rules 92 to 97 of the The Tamil Nadu Cinemas (Regulation) Rules, 1957 deal with the renewal of licence. They do not contemplate either consent or signature of the co-owner while applying for renewal of 'C' Form Licence. It is for the authorities to consider the validity of the objection and to decide the renewal of 'C' Form Licence. Unfortunately, the authorities are rejected the request of the petitioner solely on the ground that the application has not been signed by both the

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6.Learned counsel appearing for the fourth respondent would rely upon the decision of the Division Bench of this Court in *V.G.Balasundaram Vs. V.B. Gopalalakrishnan and others* reported in 1972 (2) MLJ 566 wherein the Division Bench has held that if



one of those two persons applied for renewal of 'C' Form Licence, the same cannot be granted. The said judgment is not applicable to the facts of this case. since the co-owner in that case sought for renewal in his name alone.

7. Admittedly, the petitioner submitted a representation dated 03.08.2009 wherein he had made it clear that it is an application for renewal based on the above said agreement entered into between the petitioner and the fourth respondent. The rejection of renewal by the authorities on the ground that the fourth respondent has objected to the grant of renewal of 'C' Form Licence, cannot be sustained.

8. In the result, the writ petition is allowed and the impugned proceedings are quashed. The matter is remitted to the licensing authority, namely, the District Collector, Madurai with a direction to consider the application for renewal in the light of the agreement entered into between the petitioner and the fourth respondent dated 18.04.2005. It is also made clear that the District Collector, Madurai shall consider the grant of renewal of 'C' Form Licence for the period allowed under Rules in the names of both the petitioner and the fourth respondent and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. The petitioner is entitled to run the theatre for a period of five years from the date on which renewal of 'C' Form Licence to be granted by the Collector. If the fourth respondent is aggrieved by any action of the petitioner, it is always open to him to approach the Civil Court for appropriate relief. No costs.

Sd/-

Assistant Registrar (CSII)

/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.
- +One cc to The Special Government Pleader, SR.No.52759
+One cc to Mr.S.Visvalinga, Advocate, SR.No.52443
+One cc to Mr.V.Venkataseshan, Advocate, SR.No.52600
vsg/mrn
RL/7C/3P/MR/SAR2/2.5.2017