

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.10.2018
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.28315 of 2017
and
WMP Nos.30426 to 30428 of 2017

P.Saravanan ... Petitioner

Vs

1.The Principal Secretary/
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai- 600 005.

2.The District Collector,
Villupuram District,
Villupuram. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in its Circular dated 25.05.2017 in reference C.No.L2/3403/2017 and the records of the second respondent in its order dated 6.7.2017 in reference Na.Ka.No.C5/4962/2017, quash the same and consequently, direct the second respondent to grant C form licence to the petitioner's Theatre situated at R.S.Nos.41/1B & 41/4B-1 of Sakkarapuram Village, Gingee Taluk, Villupuram District.

For Petitioner : Mr.T.Karunakaran

For Respondents : Mr.V.Shanmuga Sundar, SGP

ORDER

The petitioner has come up with this writ petition to quash the Circular dated 25.05.2017 issued by the first respondent and the order dated 06.07.2017 passed by the second respondent and consequently, direct the second respondent to grant C form licence to his theatres.

2.It is the case of the petitioner that originally, his elder brother P.Gopinath was granted 'C' Form licence in 1983 to run a cinema theatre by name Saravana Theatre and another 'C' Form licence in 2006 in respect of another theatre by name Bala Saravana Theatre. Both the theatres are situated at respective Survey Nos.41/1 (New S.No.41/1B) and 41/4 (New Survey No.41/4B1), Sakkarapuram Village, Gingee Taluk, Gingee, Villupuram District. After partition of the properties among the family members, in 2009, the aforesaid theatres have been in possession of the petitioner. In order to develop the same, he decided to demolish Saravana Theatre and convert Bala Saravana Theatre into two separate screens (capacity of 208 + 82), for which, he obtained necessary permission from the second respondent. Thereafter, he submitted an application to the second respondent seeking 'C' form licence under the provisions of the Cinema Regulation Act, 1955. However, based on the circular dated 25.05.2017 issued by the first respondent, the second respondent, by order dated 06.07.2017, directed the petitioner to produce plan approval for issuance of C Form licence.

Aggrieved over the same, the petitioner is before this Court.

3.However, on 24.09.2018, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that subsequent to the filing of this writ petition, the request of the petitioner was considered and a recommendation for exemption from the rule provision for production of building plan approval, was sent by the Government. In support of his submission, he has drawn the attention of this Court to the communication bearing No.L1/24676/2017 dated 06.12.2018 (signed on 06.09.2018) sent by the Additional Chief Secretary/Commissioner of Land Administration, Chepauk, Chennai to the Additional Chief Secretary to Government, Home (Cinema) Department, Chennai-9, enclosed at page 61 of the additional typed of papers now filed by the petitioner, wherein, it has been stated as follows:

□5.Since the applicant has constructed the theatre as per initial approved plan by Superintending Engineer (PWD) and as there is no possibility to re-construct the theatre (or) to get the clearance from DTCP authorities, it may be considered for exemption from rule provision as requested by petitioner. As per the rules 39 of Tamil Nadu Cinema (Regulation) Rules 1957, □An exemption may be granted by the Government from the operation of any particular condition or restriction, provided a strict application of it involves-

- (a)heavy structural alternation to the existing premises, and
- (b)enormous cost (or) loss to the licensee□.

6.In the circumstances stated above, the requisition of the petitioner may be considered by Government regarding exemption from the rule provision and appropriate orders may be issued in this regard.□

4.In reply, the learned Special Government Pleader appearing for the respondents sought time to get instructions from the District Collector, as to whether any order has been passed pursuant to the said communication.

5.Accordingly, today, when the matter is taken up for consideration, the learned Special Government Pleader appearing for the respondents, on instructions, submitted that the recommendation of the Additional Chief Secretary/Commissioner of Land Administration, granting exemption to the petitioner from production of building plan approval, for issuance of 'C' Form licence, is under consideration and appropriate orders would be passed by the second respondent /District Collector on or before 24.10.2018.

6.The aforesaid submission made by the learned Special Government Pleader appearing for the respondents is recorded. In view of the same, the second respondent is directed to pass appropriate orders, with regard to issuance of C Form licence to the petitioner, on or before 24.10.2018.

7.Accordingly, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.10.2018

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Index: Yes/ No

Note: Issue on 12.10.2018

To

1.The Principal Secretary/
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai- 600 005.

2.The District Collector, Villupuram District,
Villupuram.

R.MAHADEVAN, J.

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