

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.5953 & 6206 of 2019
and W.M.P. No.7055 of 2019

Aascar Entertainment Private Limited,
rep. by its Managing Director
V.Ravichandran

.. Petitioner in W.P.
No.5953 of 2019

A.Chandrasekaran

.. Petitioner in W.P.
No.6206 of 2019

-vs-

1.The District Collector,
Collectorate Salem.

.. 1st respondent in both W.Ps

2.The Chief Electrical Inspector,
26-J, Sangeeth Theatre Complex,
Pulikuthi 4th Street, Kugai,
Salem-636 006.

.. 2nd respondent in W.P.
No.5953 of 2019

2.The Electrical Inspector,
TANGEDCO,
26-J, Sangeeth Theatre Complex,
Pulikuthi 4th Street, Kugai,
Salem.

3.The Chairman,
TANGEDCO,
144, N.P.K.R.R.Maligai,
Mount Road,
Chennai-600 002.

4.M/s.Ascar Films (P) Ltd.,
rep. by its Managing Director,
Mr.V.Ravichandran,
No.9, 10th Avenue, Ashok Nagar,
Chennai-600 083.

.. Respondents 2 to 4 in W.P.
No.6206 of 2019

Prayer in W.P. No.5953 of 2019: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the second respondent to issue duplicate Electrical Inspector's Certificate (booklets) Nos.45,

46 and 47 dated 16.02.2018 valid for the period from 16.02.2018 to 15.02.2021 to the petitioner in respect of Screen-1, Screen-2 and Screen-3 of the petitioner's theatre respectively.

Prayer in W.P. No.6206 of 2019: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the 1st and 2nd respondents not to issue the duplicate Electrical Inspector Certificate ("E" Book) to the fourth respondent for the theatres Screen-1, Screen-2 and Screen-3 situated in Erumapalayam Village, Salem Taluk and District without giving a personal hearing.

For Petitioner in W.P. No.5953 of 2019 : Mr.M.Narayanaswamy

For Petitioner in W.P. No.6206 of 2019 : Mr.T.Thiageswaran for
M/s.Waraon and Sairams

For Respondents 1 and 2 in both W.Ps : Mr.K.Ravikumar,
Additional Government Pleader

For third respondent in W.P. No.6206 of 2019 : Mr.S.K.Raameshuwar
Standing Counsel

For fourth respondent in W.P. No.6206 of 2019 : Mr.M.Narayanasamy

COMMON ORDER

W.P. No.5953 of 2019 has been filed by the Aascar Entertainment Private Limited seeking a direction to the Chief Electrical Inspector, the second respondent herein to issue them duplicate Electrical Inspector's Certificate (booklets) Nos.45, 46 and 47 dated 16.02.2018 valid for the period from 16.02.2018 to 15.02.2021 in respect of Screen-1, Screen-2 and Screen-3 of their theatre.

W.P. No.6206 of 2019 has been filed by one A.Chandrasekaran seeking a direction to the District Collector, Collectorate Salem and the Electrical Inspector, TANGEDCO, Salem, respondents 1 and 2 herein not to issue the duplicate Electrical Inspector Certificate ("E" Book) to M/s.Ascar Films (P) Ltd., the fourth respondent herein for the theatres Screen-1, Screen-2 and Screen-3 situated in Erumapalayam Village, Salem Taluk and District without giving a personal hearing.

2.As the issues are one and the same, with the consent of both parties, the matters are taken up for final disposal.

3.Mr.M.Narayanaswamy, learned counsel appearing for the petitioner in W.P. No.5953 of 2019 would submit that the petitioner, having purchased the theatre complex to screen cinematograph movies situated at T.S.No.25, 26 and 34/2 of ward-j, Salem town, Salem Taluk and District under registered sale deed dated 17.05.2010 registered as document No.2162/2010 before the Sub Registrar Office II, Salem West, applied for the issuance of 'C' form licence in respect of the above theatre to the District Collector, Collectorate Salem, the first respondent herein along with necessary certificates. According to the learned counsel appearing for the petitioner, the first respondent being the licencing authority, satisfied with the requirements for granting C-Form licence as per provisions of Tamil Nadu Cinema Regulation Act, has issued C-Form licence on 16.03.2018 to the petitioner's theatre in respect of Screen-1, Screen-2 and Screen-3 for the period from 16.03.2018 to 07.01.2019, after scrutinising the original structural soundness certificate, fire safety certificate, electrical inspector's certificate Nos.45, 46 and 47 of 2018 dated 16.02.2018.

4.Learned counsel appearing for the petitioner further submitted that during the month of December 2018, the petitioner applied for the renewal of 'C' Form licence in respect of the above theatre having Screen-1, Screen-2 and Screen-3, but the first respondent has rejected the renewal application for grant of 'C' Form licence, which has been confirmed by the Appellate Authority by order dated 10.01.2019. Aggrieved by the above said order rejecting the petitioner's application for renewal of 'C' Form licence in respect of Screen-1, Screen-2 and Screen-3 of the petitioner's theatre, the petitioner preferred a writ petition in W.P. No.1262 of 2019 before this Court in which interim orders were granted on 11.01.2019, 18.01.2019 and 18.02.2019 directing the first respondent to issue e-permit to the petitioner's theatre in respect of Screen-1, Screen-2 and Screen-3. According to the learned counsel appearing for the petitioner, by virtue of the above order, the petitioner has been running the theatre. However, the Chief Electrical Inspector, Salem, the second respondent herein has issued Electrical Inspector's Certificate in respect of Screen-1, Screen-2 and Screen-3 of petitioner's theatre, which is valid for the period from 16.02.2018 to 15.02.2021 on 16.02.2018 and the above original Electrical Certificates were produced by the petitioner before the first respondent at the time of scrutinising the documents for issuance of 'C' Form licence in respect of the petitioner's theatre. Thereafter, satisfying with the above documents, 'C' Form licence was issued to the petitioner's theatre on 16.03.2018, but the above original Electrical Certificates in respect of petitioner's theatre were illegally taken away by the erstwhile employee namely A.Chandrasekaran/the writ petitioner in W.P. No.6206 of 2019

from the petitioner without his knowledge.

5. According to the learned counsel appearing for the petitioner, as per Rule 44(2) of the Tamil Nadu Cinemas (Regulation) Rules 1957, the petitioner is entitled to get the duplicate copy of the Electrical Inspector's Certificate, dated 16.02.2018, which was issued by the second respondent on payment of Rs.25/- on application made to the second respondent through the first respondent. In pursuance of the same, the petitioner applied on 21.01.2019 with the second respondent through the first respondent for the issuance of duplicate Electrical Inspector's Certificate and the same was issued to the petitioner on 16.02.2018 in certificate Nos.45, 46 and 47 of 2018 in respect of Screen-1, Screen-2 and Screen-3 of petitioner's theatre, which is valid for the period from 16.02.2018 to 15.02.2021 and he has also paid a sum of Rs.50/- each in respect of Screen-1, Screen-2 and Screen-3 on 22.01.2019 as per the said rule. Though the said application was received by the respondents on 23.01.2019, the second respondent refused to issue the duplicate of the Electrical Inspector's Certificate dated 16.02.2018.

6. Learned counsel appearing for the petitioner further submitted that aggrieved by the exparte order of injunction in the Original Suit in O.S. No.100 of 2018, filed by the petitioner in W.P. No.6206 of 2019, granted by the Trial Court, the petitioner has filed Civil Miscellaneous Appeal in C.M.A. No.961 of 2018 before this Court questioning the grant of exparte injunction. This Court, while entertaining the C.M.A. No.961 of 2018, by judgment dated 05.10.2018, vacated the grant of interim injunction, finding no merits in the same and now the petitioner, as per the observation made by this Court in the judgment passed in the above C.M.A., has moved an application seeking rejection of the plaint and the Additional District Court, Salem has reserved the matter for passing orders. When the order of injunction granted by the Trial Court in O.S. No.100 of 2018 has been vacated by this Court vide judgment dated 05.10.2018, allowing the C.M.A., the objections raised by the petitioner in W.P. No.6206 of 2019 is wholly untenable and unjustified in the light of the findings given by this Court in the above C.M.A. Therefore, a direction be issued to the Chief Electrical Inspector, the second respondent herein to issue duplicate Electrical Inspector's Certificate, valid for the period from 16.02.2018 to 15.02.2021 as per Rule 44(2) of the Tamil Nadu Cinemas (Regulation) Rules 1957.

7. Mr. T. Thiageswaran, learned counsel appearing for the petitioner in W.P. No.6206 of 2019, heavily opposing for the above prayer, would submit that the petitioner, A. Chandrasekaran was the original authorised person on behalf of M/s. Ascar

Entertainment Private Limited, the fourth respondent herein to run the theatre, hence, appeared before all the authorities concerned including the renewal of licence and in pursuance of the said authorisation, the petitioner spent a sum of Rs.5 crores for the renovation of theatre and for obtaining the licence for running the theatre and therefore, the licence dated 16.03.2018 was issued by the District Collector and the petitioner was running the theatre along with one Mr.K.Chidambaram. According to the learned counsel appearing for the petitioner, when the petitioner was running the theatre, a dispute has arisen between the petitioner and the fourth respondent that led to the filing of Original Suit in O.S. No.100 of 2018 before the Additional District Court, Salem seeking a declaration that the defendants or their men, assignees, legal heirs or any person deriving any title through them have no right to operate the Multiplex Theatre at the suit schedule property under the licence granted for exhibition of Cinema in the schedule property as per Form 'C' dated 16th March of 2013 valid upto 7th January of 2019 of the conditional violations of the said licence, which is also in violation of Tamil Nadu Cinemas (Regulations) Act, 1955 and as such sought for a direction to the defendants to assign the licence right to the plaintiff as per rule 120 of Tamil Nadu Cinemas (Regulations) Act, 1955 and other consequential reliefs.

8. Accepting the prima facie case made out by the petitioner, the learned Trial Court was pleased to grant ex parte order of injunction. However, the petitioner in W.P. No.5953 of 2019, questioning the correctness of the said order, has filed C.M.A. No.961 of 2018 before this Court and after considering the rival submissions made by both parties, this Court by judgment dated 05.10.2018, allowing the appeal, vacated the ex parte order of injunction granted by the Trial Court and now the main issue has to be decided by the Trial Court. In the meanwhile, an application has been filed for rejection of plaint by the petitioner in W.P. No.5953 of 2019, wherein after considering the rival submissions, the Trial Court has reserved the matter for passing orders. Therefore, before passing of the final order by the Trial Court, no direction can be issued to the second respondent for issuance of duplicate Electrical Inspector's Certificate.

9. Heard the parties on both sides.

10. The plaintiff/Mr.A.Chandrasekaran has filed a suit in O.S.No.100 of 2018 against the writ petitioner in W.P.No.5953 of 2019 seeking to declare that the defendants or their men, assignees, legal heirs or any person deriving any title through them, have no right to operate the Multiplex Theatre at the suit schedule property under the licence granted for exhibition of

Cinema in the schedule property as per Form C, dated 16.03.2013, valid upto 07.01.2019; with a further direction against the defendants therein to assign the licence right to the plaintiff as per Rule 120 of the Tamil Nadu Cinemas (Regulations) Act, 1955; with a consequential permanent injunction restraining the defendants and their men from in any way preventing the plaintiff and other legal heirs to have the licence to be operative through the suit property. Although the trial Court was pleased to grant an order of ex parte injunction in favour of Mr.A.Chandrasekaran, being aggrieved by the same, when C.M.A.No.961 of 2018 was filed by Mr.V.Ravichandran/writ petitioner in W.P.No.5953/19, this Court, vide its judgment dated 05.10.2018, discussing the rival contentions in paragraph No.6.2 holding that the plaintiff in the suit failed to prove the prima-facie case, vacated the ex parte order of injunction granted against the petitioner/A.Chandrasekaran. In this context, it is pertinent to extract the relevant portion of the said judgment, which is quoted below:-

'Given the nature of plaintiff's pleading, the proximate description, or the slot in which plaintiff's claim of right of possession may be fitted in, is that of a representative, an agent, or may be that of a caretaker, but none of which clothe him with a right to exclude the owner of the property from possessing it. In Maria Margarida Sequeira Fernandes and Others Vs. Erasmo Jack De Sequeria (Dead) Through LR's [(2012) 5 SCC 370], the Hon'ble Supreme Court has held that a caretaker of a property has no vested right to seek injunction against the owner of the property, which when translated into a legal notation would mean that he who does not have a title to be in immediate possession of an immovable property, or anything signifying a right in the property, cannot exclude one who has a right or title to it. The plaintiff in this case, did not appear to trouble the defendants/appellants in his litigious pursuit, and made easy their job with his own pleadings as he walked into the zone of no-rights-in law voluntarily. The injunction granted deserves to be vacated.

6.3 It might be that the injunction may not have been extended by the trial Court, but it makes no relevance here, as that which is incapable of being granted in law should not be let to occupy the judicial space and adds to the congestion in litigations. Therefore, this Court holds the very application for interim injunction itself is ill-conceived, and that the same is liable to be dismissed.'

11. In the above judgment, this Court has given a finding that Mr.A.Chandrasekaran claiming to be a caretaker has no legal

right to seek any order of injunction against the owner of the property in question. Also pursuant to the judgment dated 05.10.2018 passed by this Court in C.M.A. No.961 of 2018 vacating the exparte order of injunction granted in favour of A.Chandrasekaran, the petitioner in W.P. No.5953 of 2019 has moved an application for rejection of plaint before the Trial Court on the ground that a care taker of a property has no legal right to seek injunction against his own owner and the Trial Court, after hearing the parties on both sides, has reserved the matter for passing orders. While so, since the petitioner in W.P. No.5953 of 2019 has been running the theatre continuously, no purpose would be served in keeping the theatre closed. Therefore, this Court, finding no merit in the writ petition filed by A.Chandrasekaran raising objection not to grant the duplicate Electrical Inspectors Certificate, is inclined to dismiss the same and accordingly W.P. No.6206 of 2019 is dismissed. Consequently, the objection filed by Mr.A.Chandrasekaran, having no merits, is also rejected.

12.Lastly, it is to be noted that in the light of Rule 44 (2) of the Tamil Nadu Cinemas (Regulation) Rules, 1957, which is extracted below;

'(2)A duplicate of the Chief Electrical Inspector's Certificate may be granted by the Chief Electrical Inspector on payment of a fee of Rs.25, provided that the application is submitted through the licencing authority.'

the petitioner is entitled to get duplicate Electrical Inspector's Certificate on payment of requisite fee, if any.

13.Accordingly, the second respondent is hereby directed to issue Duplicate Electrical Inspector's Certificate within a period of ten days from the date of receipt of a copy of this order, subject to the result of the pending suit. W.P. No.5953 of 2019 filed by the Aascar Entertainment Private Limited stands allowed. Consequently, W.M.P. is closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

vga

To

1.The District Collector,
Collectorate Salem.

2.The Chief Electrical Inspector,
26-J, Sangeeth Theatre Complex,
Pulikuthi 4th Street, Kugai,
Salem-636 006.

3.The Electrical Inspector,
TANGEDCO,
26-J, Sangeeth Theatre Complex,
Pulikuthi 4th Street, Kugai,
Salem.

4.The Chairman,
TANGEDCO,
144, N.P.K.R.Maligai,
Mount Road,
Chennai-600 002

+1cc to Mr.M.Narayanaswamy, Advocate SR.No.23682

+1cc to M/s.Waraon & Sairams, Advocate SR.No.23520

+2ccs to Mr.K.Ravikumar, Advocate SR.No.23912

W.P.Nos.5953 & 6206 of 2019

RK(CO)
GMY(18/03/2019)

सत्यमेव जयते
WEB COPY