

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.12106 of 2019

ORDER:

This writ petition is filed assailing the proceedings C.No.19/119/G1-Cinemas/2019 dt.21.05.2019 issued by the 2nd respondent-Commissioner of Police granting Form B Licence to M/s. Srinivasa 70 MM A/c Deluxe Theatre, Pedapalli, as illegal, arbitrary and for consequential directions.

2. Brief facts which are germane for disposal of the writ petition are as follows:

According to the petitioner, her father namely late Kota Srinivas Reddy had five children, i.e., respondents 3 to 6 are the sons and the daughter along with another sister Renuka. The siblings are married and enjoying the joint property of her late father, who is having different properties including two cinema theatres i.e., M/s. Srinivasa 70 MM A/C Deluxe Theatre, Peddapalli and Annapurna Cinema Theatre, Huzurabad. That her father died in the month of January 2009 without making any Will in favour of the family members and mother also died two (2) years ago. However, the legal heirs have continued to be in joint ownership and possession in respect of the properties including the Theatres. Respondents 3 to 6 being the male members were looking after and managing the properties. However, she

began requesting the respondents 3 to 6 from 2018 for partitioning the properties, to which they did not partition till today. As such legal notices were issued to them to partition the properties, but there is no response from them. As she made an application to the 2nd respondent not to renew Form-B licence of M/s. Srinivasa 70 MM A/C Deluxe Theater, Peddapalli, the same was closed from last four (4) months, till partition is completed. Though her father expired in 2009 and mother expired in 2016, no Succession Certificate is obtained by respondents 3 to 6, which is mandatory as per law, for granting of Form B licence. She also made another representation on 13.05.2019 to the 2nd respondent and also to DGP, Telangana State requesting them not to renew the Form B licence, pending partition of the properties by the respondents 3 to 6. That the respondents 3 to 6 failed to produce the Succession Certificate and other relevant documents such as the consent of the other partner, who was having a share in running the Theatre. Though the theatre is closed since March 2019, the 2nd respondent issued impugned proceedings dated 21.05.2019 renewing the Form B licence for a period of two years with effect from 27.02.2019 to 26.02.2021 and in pursuance of the same, the respondents 3 to 6 illegally running the theatre. Though the suits filed by Mr.M.Ramana Reddy, who is co-partner of the theatre against respondents 3 to 6 are pending, the respondents 3 to 6 have made an application to

renew Form B licence on 09.05.2019 to the 2nd respondent. Challenging the same, M. Ramana Reddy filed W.P. No.44884 of 2018 before the Hon'ble High Court with a prayer not to allow respondents 3 to 6 to run the Theatre, without any Form B licence. The Hon'ble Court granted interim directions directing not to run the theatre by order dt.03.01.2019. It is stated that the theatre licence was obtained by petitioner's father with respect to M/s. Srinivasa 70mm A/C Deluxe Theatre, Peddapalli till 27/2/2019. It is stated that since her father expired, her brothers i.e., respondents 3 to 6 have to get the licence transferred in their name by submitting all relevant documents including Succession Certificate, as per the Cinematographic Act and Rules therein. Since the respondents 3 to 6 failed to file Succession Certificate, the renewal of licence under Form B is not valid under law.

3. Counter Affidavit is filed by 2nd respondent denying the averments in the affidavit filed in support of the Writ Petition stating that the respondents 3 to 6 herein and one Mandala Ramana Reddy & Mandala Ravinder Reddy had submitted a representation to the respondent No.2, stating that they are partners of M/s. Srinivasa 70 MM A/c. DTS Theatre, Peddapalli along with Form-H and further stated that the father of the petitioner namely K.Srinivasa Reddy executed Will Deed on 25.10.2006 and as per Section 2 (h) of Indian Succession Act and Section 30 of Hindu Succession Act, the parties are having

testamentary succession, as such, no Succession Certificate is required for issuing B-Form licence and requested to issue B-Form licence of the theatre i.e., M/s. Srinivasa 70 MM A/c. DTS Theatre, Peddapalli. Pursuant to the representation of the respondents 3 to 6 & others, the respondent No.2 endorsed to the Circle Inspector of Police, Peddapalli vide Memo C.No. 19/119/ Cinemas/G1/2018 dated 14.05.2019 for enquiry and report. Thereafter, the Circle Inspector of Police, Peddapalli had enquired into the said representation and found that M/s. Srinivasa 70 MM A/c. DTS, Theatre, Peddapalli was constructed by late Kota Srinivasa Reddy i.e., father of respondents 3 to 6 and other partner by name Mandala Ramana Reddy on 30.12.1995 and whereas, the said Kota Srinivasa Reddy was having 80% and M.Ramana Reddy was having 20% share, respectively. During the life time of said Kota Srinivasa Reddy, another partnership deed dated 01.07.2005 was executed with their sons as other partners i.e., Kota Srinivasa Reddy-4%, Kota Sathyanarayana Reddy-19%, Kota Laxma Reddy-19%, Kota V. Rama Krishna Reddy-19%, Kota Ramachandra Reddy-19% and Mandala Ramana Reddy-20% shares respectively. Subsequently, on 09.05.2019, the partners namely Mandala Ramana Reddy-10%, Kota Sathyanarayana Reddy-20%, Kota Laxma Reddy-20%, Kota V.Rama Krishna Reddy-20%, Kota Ramachandra Reddy-20% and Mandala Ravinder Reddy 10% have executed a fresh

partnership deed sharing the above percentage of their shares respectively, and filed "No Objection Certificates", which are required for issuance of B Form licence, issued by various departments to the Circle Inspector of Police, Peddapalli, which are as follows:

- i) Structural Soundness Certificate from Executive Engineer (R&B), Peddapalli. (Valid from 27-2-2019 to 26-2-2021);
- ii) Copy of NOC from State Disaster Response & Fire Services Department. (Valid up to 19-5-2024)
- iii) Certificate from Deputy Electrical Inspector Nizamabad Sub Division, Under Rule 14/6 of Andhra Pradesh Cinema Regulations Rules 1970. (Valid from 1-10-2018 to 31-12-2022)
- iv) Certificate from the Secretary, Telangana State Film Chamber of Commerce as per GOMs.No. 149, Home (General-A) Department. (26-2-2019 to 25-2-2022)
- v) Certificate from Telangana State Film Development Corporation Limited as per G.O.Ms.No. 202, Home (General-A) Department. (Valid from 21-2-2019 to 20-2-2024)

After completion of enquiry, the Circle Inspector of Police, Peddapalli, recommended to issue B-Form licence to M/s. Srinivasa 70 MM A/c. DTS Theatre, Peddapalli and accordingly submitted a report to the 2nd respondent vide C.No.40/C1-5/2019 dated 20.05.2019. Pursuant to the same, the 2nd respondent passed orders vide proceedings C.No.19/119/G1-Cinemas/2019 dated 21.05.2019 for renewal of Cinematograph licence in Form-B from 27.02.2019 to 26.02.2021 with regard to M/s. Srinivasa 70 MM A/c. DTS Theatre, Peddapalli and also communicated the said order to the licensee.

4. At the time of filing W.P.No. 44884/2018 by one Mandala Ramana Reddy, there was no licence renewed against the

subject theatre. The said writ petition was filed seeking Writ of Mandamus to direct the respondents 2 & 3 Joint Collector, Peddapalli and Commissioner of Police, Peddapalli not to allow the partners to open the theatre without a valid licence for cinema theatre Srinivasa 70 MM A/c. Deluxe. Peddapalli and the Hon'ble High Court through its order dated 03.01.2019 granted interim orders in I.A.No. 1/2018 in W.P.No.44884/2018, directing the respondents 2 & 3 therein not to allow the respondents 4 to 7 therein to run a cinema theatre at the said address. After passing the aforesaid interim orders, the petitioners therein and other partners settled the matter amicably and submitted a representation to the Commissioner of Police, Ramagundam for issuing B-Form licence in the name of M/s Srinivasa 70 MM A/C DTS Theatre, Peddapalli.

5. That the petitioner submitted a representation 13-5-2019 to the Commissioner of Police, Ramagundam with regard to the property disputes in between the petitioner and her family members. In turn, the Commissioner of Police, Ramagundam forwarded the same to the Circle Inspector of Police, Peddapalli for enquiry and report. Accordingly the Circle Inspector of Police, Peddapalli has enquired into the matter and submitted his enquiry report to the Commissioner of Police, Ramagundam vide C.No. 55/CI-S/2019, dated 20-5-2019 stating that the disputes in between the petitioner and his family members

pertains to property which is purely civil in nature and that the Police is no way concern with the disputes and advised the petitioner to approach the Hon'ble Civil Court to seek redressal for her grievance. This respondent is nothing to do with the legal notice dated 20.04.2019 issued by the petitioner to the respondents 3 to 6. Since the petitioner is having alternative remedy of filing appeal before the Government, this writ petition is liable to be dismissed.

6. Additional counter affidavit is filed by the 2nd respondent stating that the Management of Srinivasa 70MM Deluxe Theatre, Peddapalli had applied for renewal of licence for the years 2014-15 to 2018-2019 on different dates, by remitting the user charges before the Office of the Revenue Divisional Officer, Peddapalli. That on verification with the concerned authority as to whether the B Form licence was renewed for the above period, it is found that the Management of Srinivasa 70 MM Deluxe Theatre, Peddapalli had submitted an application along with documents to the RDO on 31.12.2018 with a request to renew their licence; that the original application was misplaced and it could not be traced. On 29.05.2019, the RDO, Peddapalli sent a letter to the RDO, Karimnagar, vide LR.No.D/2596/2018 with a request to issue certified copy of Form-B Licence of the subject theatre. At the time of filing of WP No.44884/2018, licence was not renewed against the above said theatre. Subsequently, the petitioner in the above writ

petition and respondents therein, settled the matter amicably and submitted a representation to the 2nd respondent for issuing Form-B Licence and that basing on the report of the Circle Inspector of Police, the 2nd respondent issued impugned Form B licence in respect of the subject theatre.

7. Reply is filed to the counter affidavit of the 2nd respondent denying the averments therein stating that the 2nd respondent cannot renewal the licence as the Managing Partner died in the year 2009, but he can only transfer the licence, if proper application is made under Rule 5. The original of Will Deed dated 25.10.2006 alleged to have been executed by the father of the respondents 3 to 6 is not filed before this Court. The respondents 3 to 6 have created the said Will. As per Section 42 of the Indian Partnership Act, 1932, if one of the partner dies, the partnership would stand automatically dissolved and if the other partners intends to continue partnership, they have to make necessary applications for new Partnership Deed and it should be registered specifying the Managing Partners. As per Rule 5 of the A.P. Cinemas (Regulation) Rules, 1970, it is mandatory to produce Succession Certificate for granting Form B licence and that since the same is not produced by the respondents 3 to 6, the licence granted by the 2nd respondent to the respondents 3 to 6 is not valid in the eye of law. The respondents 3 to 6 have not followed the procedure when Partnership Deed is modified or altered by registering the

document, paying the stamp duty etc., as per the Partnership Act. No documents are filed before this Court either by the respondents 3 to 6 or by the 2nd respondent, as such, the documents produced by the respondents 3 to 6 and relied on by the 2nd respondent, are all fabricated.

8. Counter affidavit is filed by the 3rd respondent denying the averments in the affidavit filed in support of the writ petition stating that his father Late Kota Srinivasa Reddy purchased the land admeasuring 2700 sq.yds in Sy.No.623 situated at Peddapalli under registered sale deed No.1636 of 1993 and 1643 of 1993 to construct Cinema Theatre under the name and style of "Srinivasa 70 MM A/c Deluxe" (Air Cooled) theatre and entered into Partnership Deed along with Sri Mandala Ramana Reddy with 20% share and his father and respondents 3 to 6 herein holding 80% share. The theatre was closed for renovation. The renewal of "Form B Licence was obtained vide proceedings No.C.No.19/119/G1-Cinemas/2019, dated 21.05.2019 issued by the 2nd respondent. The partners of the firm i.e., respondents 3 to 6 and Sri Mandala Ramana Reddy have also entered into a revised Partnership Deed dated 09.05.2019. The respondents 3 to 6 have also obtained No Objection Certificates from the competent authorities. Since the writ petitioner is not a partner of the firm, has no *locus standi* to interfere in running the theatre. The present writ petition is filed to extract money from these respondents, which

is an abuse of process of law. Any proceedings relating to establishing of ownership or partnership of the petitioner in the theatre can only be adjudicated by Civil Court and not in a Writ Petition filed under Article 226 of the Constitution of India. It is stated that Late Kota Srinivasa Reddy had 7 children, not 5 children, as mentioned by the writ petitioner. The respondents 3 to 6 are the four sons and respondent Nos.7, 8 and writ petitioner are the daughters. Late Kota Srinivasa Reddy performed the marriages of all the three daughters and also given valuable gifts at the time of the marriage and also after the marriage. The Partnership Deed for the firm to run the subject theatre with respondent Nos.3 to 6 as partners along with Mandala Ramana Reddy was entered during the life time of their father.

9. Reply affidavit is filed to the counter affidavit filed by the respondents 3 to 6 denying the averments therein stating that the petitioner is not aware of the alleged Will executed by late Kota Srinivasa Reddy in favour of respondents 3 to 6 and same is not filed before this Court. There is no subsequent Partnership Deed entered by the father of the respondents 3 to 6 along with respondents 3 to 6 and Mandala Ramana Reddy from 2006 onwards and that continuation of Form-B licence after the death of K.Srinivasa Reddy, father of respondents 3 to 6 in the year 2009 is contrary to law and Rule 5 (1)(a)(b) of the Rules. No procedure is followed while submitting the revised

Partnership Deed and same is also not registered one. Since the Partnership Deed submitted by the respondents 3 to 6 along with one Mandala Ramana Reddy is not registered, the renewal of licence under Form-B cannot be issued.

10. Heard Sri T.S.Venkata Ramana, learned counsel for the petitioner and learned Government Pleader for Home appearing for respondents 1 & 2 and Sri P.Bhaskara Rao, learned counsel appearing for respondents 3 to 6.

11. Sri T.S.Venkata Ramana, learned counsel for the petitioner, while reiterating the averments in the affidavit filed in support of the writ petition, submits that the licence in respect of subject Theatre is in the name of late Sri Kota Srinivasa Reddy since the year 1995. He submits that though the said Srinivasa Reddy died in the year 2009, the Form-B Licence was also renewed in his name subsequently, which is in violation of Rule 12 of the Andhra Pradesh Cinemas (Regulation) Rules 1970 (for short 'the Rules') and in such circumstances, Form B licence can only be granted under Rule 5 of the Rules, after furnishing the requisite documents including Succession Certificate, within a period of 90 days of the death of the original licensee. He further submits that the documents relied on by the respondents 3 to 6 are fabricated and not valid in the eye of law. He further contended that the applications for renewal of licence of the subject theatre are not

filed before this Court either by the respondent No.2 or by the respondent Nos.3 to 6.

12. On the other hand, learned Government Pleader for Home submits that the issuance of impugned Form-B licence in favour of the respondents 3 to 6 by the 2nd respondent is in accordance with law, after the report being submitted by the Circle Inspector of Police, Peddapalli. He further submits that since the respondents 3 to 6 are legal heirs of late K.Srinivasa Reddy and are having testamentary succession, no Succession Certificate is required for issuing Form-B licence. He further submits that though there is a direction in IA No.1 of 2018 in WP No.44884 of 2018 not to allow the respondents 4 to 7 (respondents 3 to 6 herein) to run the subject cinema theatre, but the matter was compromised between the parties and have jointly submitted a partnership deed along with an application for issuance of Form-B licence, as such, after verifying the documents filed by them, the impugned proceedings have been issued.

13. Learned counsel for the respondents 3 to 6 vehemently argued that the petitioner is neither partner to the partnership deed nor having any share in the subject cinema theatre, as such, she has no *locus standi* to file the writ petition and on this ground alone, writ petition is liable to be dismissed. He further submits that the petitioner filed the present writ

petition with the *malafide* intention of extracting monies from the respondents 3 to 6. He further submits that any proceedings relating to establishing of ownership or partnership of the petitioner in the theatre can only be adjudicated by the competent civil court having jurisdiction, but not this Court under Article 226 of the Constitution of India. He also submits that since Will is executed by father of petitioner in respect of his share in favour of respondents 3 to 6, there is no need to submit family succession certificate to the 2nd respondent before obtaining Form B licence. He also submits that the petitioner cannot claim partition of properties in a writ petition under Article 226 of the Constitution of India. In support of his contention, he relied on the judgments of Hon'ble Supreme Court in the case of **Roshina T. v. Abdul Azeez K.T¹** and **N.Sankaranarayan v. The Chairman, Tamil Nadu Housing Board²**.

14. In this case, admittedly, there is no dispute with regard to relationship of the petitioner with the respondents 3 to 6 and that petitioner is daughter and respondents 3 to 6 are sons of one Late Kota Srinivasa Reddy; that they are having joint family properties including subject cinema theatre. It is also not in dispute that the subject theatre was constructed and maintained by the father of the petitioner and respondents 3 to

¹ Civil Appeal No.11759 of 2018

² Civil Appeal Nos.7390-7391 of 2009

6 i.e., late Kota Srinivasa Reddy along with one Mandala Ramana Reddy with the shares 80% and 20%, respectively. Subsequently, respondents 3 to 6, who are the sons of the late Kota Srinivasa Reddy, joined in the partnership along with said Mandala Ramana Reddy and entered into partnership deed in the year 2006.

15. The only controversy involved in this writ petition is whether the 2nd respondent erred in granting Form B licence to the respondents 3 to 6 in respect of the subject theatre.

16. Before considering the aforesaid contentions of both parties, it is necessary to extract relevant provisions of the Andhra Pradesh Cinemas (Regulation) Rules, 1970.

Rule 5: Transfer of permission for construction or of licence on the death of the holder of permission/licence:-

(1)(a) Where the holder of the permission to construct a cinema building or to make additions or alteration thereto dies the person succeeding to the possession of the said premises covered by the permission, may use it;

Provided that such person has, within thirty days of the death of the holder of the permission, informed the licensing authority of the death of the holder and makes an application along with succession certificate within ninety days of the death of the said holder, for transfer of said permissions in his favour.

(b) The licensing authority may, on application made to it within three months of the death of the holder or permission, transfer the permission to the person succeeding to the possession of the premises and the incomplete building or the building to be altered.

2(a) Where the holder of a cinematograph licence dies, the person succeeding to the possession of the cinema building covered by the licence of the deceased, may, for a period of three months, use the licence as if it has been granted to himself;

Provided that such person has, within thirty days of the death of the licensee, informed the licensing authority

which granted the licence of the death of the licensee and of his own intention to use the licence;

Provided further that no licence shall be used after the date on which it would have ceased to be effective without renewal in the hands of the deceased licensee.

- (b) the licensing authority may, on application made to it within three months of the death of the licensee, transfer the licence to the person succeeding to the possession of the cinema building covered by the licence;

The aforesaid provision makes it clear that when a holder of permission of a cinema building dies, the person succeeding to the possession of the said premises, within thirty days of the death of the holder of the permission, has to inform the licensing authority about the death of the holder and make an application along with **Succession Certificate** within ninety days of the death of the said holder, for transfer of said permissions in his favour. Thereafter, the licensing authority may, on application made to it within three months of the death of the holder or permission, transfer the permission to the person succeeding to the possession of the premises. The contents of counter affidavits filed by respondents, referred to in the pleadings and record produced goes to show that such procedure is not followed before granting renewal of license in favour of respondents 3 to 6, which is impugned in the Writ Petition.

17. A perusal of the material papers and photostat copies of record placed by the 2nd respondent goes to show that initially, the B-Form licence was in the name of Srinivasa 70MM Deluxe Theatre, Peddapalli, addressed to Kota Srinivasa Reddy, in the

capacity of Managing Partner on 13.08.1996. Subsequently, the said licence was renewed on 03.09.1997 from 01.08.1997 to 31.07.1998 vide proceedings No.C/1771/91, dated 03.09.1997. From the year 1998 till 31.07.2014, the licence was renewed every year on different dates in the name of partnership firm through said Kota Srinivasa Reddy, who expired in the year 2009.

18. It is pertinent to note that when there was dispute between the respondents 3 to 6 and Mandala Ramana Reddy, the latter filed Writ Petition i.e., WP No.44884 of 2018 wherein it is categorically stated in the affidavit that the subject theatre is in the name of said Kota Srinivasa Reddy, as such, the same was not modified, after death of Kota Srinivasa Reddy. Therefore, it is clear that neither the 2nd respondent nor the respondents 3 to 6 have followed the procedure in complying the conditions enumerated in Rule 5 of the Rules. On this ground, the impugned order renewing the Form B licence is liable to be set aside.

19. That apart, in the counter affidavit filed by the 2nd respondent, it is categorically stated as follows:

“9. It is respectfully submitted that the father of the petitioner namely K.Srinivasa Reddy executed WILL DEED on 25.10.2006 and as per Section 2(h) of Indian Succession Act and Section 30 of Hindu Succession Act and the parties having testamentary succession, as such, no succession certificate is required for issuing B-Form licence.”

A perusal of the counter affidavit filed by the 2nd respondent goes to show that basing on the Will deed produced by the respondents 3 to 6, Form B Licence was granted, but neither the impugned order nor the reports made by the Inspector of Police or the record, basing on which impugned proceedings have been issued refers to the Will Deed, which goes to show that there is no application of mind, while issuing impugned proceedings. More so, impugned proceedings cannot be supported by supplementing the reasons by way of counter affidavit. In **Mohinder Singh Gill and another v. The Chief Selection Commissioner, New Delhi**³, the Hon'ble Supreme Court held as follows:

“The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise.”

The assumption and presumption of the 2nd respondent that there is no need to obtain Succession Certificate by the respondents 3 to 6 is totally misconceived and untenable, in view of Rule 5(1)(b) of the Rules. When the Statute provides that particular thing is to be done in a particular manner, the same should be done in the same manner.

20. It is also the specific contention of the learned counsel for the petitioner that the Form B licence was issued in the name of

³ (1978) 1 Supreme Court Cases 405

her father i.e., Kota Srinivasa Reddy, even after his death from 2006 till 2014, without there being any consent letter from the other partners, without filing an application before 90 days of expiry of licence, which is in violation of Rule 12A of the Rules.

21. Per contra, it is contended by the learned Government Pleader as well as learned counsel for respondents 3 to 6 that the 2nd respondent granted Form B licence only after verifying the all the requisite documents and also after obtaining report from the Circle Inspector of Police, Peddapalli. For the sake of convenience, Rule 12(A) of the Rules is reproduced as under:

“Rule 12A Application for the Renewal of a Licence:

(a) Every application for renewal of a licence shall be made ninety days before the expiry of licence sought to be renewed and it shall be made in Form-AII in triplicate accompanied by the treasury receipt for the payment of fees prescribed in Rule 16, certified or Xerox copies of the certificate of longevity of the building issued by the Executive Engineer (R&B) and the certificate of validity of the Electrical and Fire Certificate in Form-D issued by Electrical Inspector:

Provided that if any licence is co-terminus with the period of validity of the electrical and fire certificate in Form-D the application for its renewal shall also be accompanied by the treasury challan with a certified or zerox copy thereof for payment of fees prescribed in Rule 16 for the renewal of the said certificate.

Provided further that where applications are not made before ninety days as provided in sub-rule (a), a late fee of Rs.20/- (Rupees only) for each day of delay shall be paid and the challan enclosed to the renewal application.

(b) a letter of consent in writing of the original licensee whenever there is a transfer of possession of site, building and equipment to the effect that he has no objection to the licence being transferred in the name of the transferee. An affidavit may be obtained in the case of transfer of title.

Rule 12B Renewal of Licences to cinema buildings:

(1) Within fifteen days of receipt of such application, the licensing authority shall:

- (a) If the application is not in accordance with the rules, dispose it of in accordance with clause (a) of sub-rule (1) or Rule 9(B).
- (b) If the application is in order, the electrical and fire certificate is valid and if the certificate of longevity of the building initially issued by the concerned Executive Engineer (R&B) is valid for the period for which the renewal of licence is applied for the licence may be renewed for the period applied for:

Provided further that, in case of an application for renewal of a licence (in respect of a permanent cinema building), which is made three months in advance of the expiry of the licence, if the authorities concerned do not furnish their reports and certificates in time, the respective certificates shall be deemed to have been renewed.”

In this regard, it is pertinent to refer to the material papers filed by the 2nd respondent. By virtue of proceedings No.C2/3163/1996, dated 13.08.1996, Form-B licence was granted for the subject theatre, which is addressed to Kota Srinivasa Reddy, in the capacity of Managing Partner of the theatre. The same is renewed from the year 1997 till 2014. That is to say, when Kota Srinivasa Reddy expired in the year 2009, the same was not brought to the notice of the competent authority, for granting of licence in favour of other partners, which is in violation of Rules 5 & 12 A (a) of the Rules, which provides every application for renewal shall be made within 90 days before the expiry date. In this case, though the licence expired in the year 2014, the same was not renewed subsequently for the years 2014 till 2019, till the issuance of impugned Form B licence. Therefore, the procedure followed in issuing the impugned Form-B licence in favour of respondents 3

to 6 by the 2nd respondent is not in accordance with law, as such, the same is liable to be set aside.

22. That apart, a perusal of the impugned proceedings goes to show that there is no whisper about the Will alleged to have been executed by the respondents 3 to 6. Except mentioning about the no objections given by the competent authorities, there is nothing on record to show that the 2nd respondent is empowered to grant licence in favour of the respondents 3 to 6, without there being a Succession Certificate in favour of the respondents 3 to 6. As already stated supra, though it is averred that the respondents 3 to 6 have got the share of Late Mr.Kota Srinivasa Reddy in the year 2006 itself, but there is no corresponding documentary evidence before the 2nd respondent, to show that the Form-B licence was granted in favour of other partners, but not in the name of said Kota Srinivasa Reddy, after his death.

23. As rightly contended by the learned Government Pleader for Home appearing for respondents 1 & 2 and learned counsel appearing for respondents 3 to 6 that the petitioner cannot settle her scores in respect of partition of joint family properties by way of writ petition before this Court and that she has to approach competent civil court having jurisdiction to agitate her rights. It is well settled law that this Court cannot

go into the aspects of individual rights in respect to private properties under Article 226 of the Constitution of India. But this Court has examined the issue only to the extent of validity of renewal of licence basing on admitted facts and record produced.

24. Though it is vehemently contended by the learned Government Pleader that petitioner has alternative remedy against impugned licence before the Government, but failed to bring to the notice of this Court under which provision of law or Rule, petitioner can avail alternative remedy against impugned proceedings.

25. It is finally contended by the learned counsel for the respondents 3 to 6 that the petitioner has no *locus standi* to file this writ petition challenging the impugned proceedings of the 2nd respondent since she is not a partner of the partnership firm. Admittedly, the petitioner is the legal heir of Kota Srinivas Reddy along with respondents 3 to 6, as such, it cannot be said that she has no *locus standi* to file the writ petition. That apart, as already stated supra, this Court is not settling the individual property rights either in respect of petitioner or in respect of respondents 3 to 6, but this Court has only considered whether the impugned Form B licence issued by the 2nd respondent is valid in the eye of law or not.

26. Though the learned counsel for the respondents 3 to 6 relied on the judgments in **N.Sankaranarayanan v. The Chairman, Tamilnadu Housing Board (supra)** and **Roshina T v. Abdul Azeez K.T (supra)**, the same are not applicable to the facts and circumstances of the case, since this Court is not going into the disputed questions of fact or title in respect of the subject theatre.

In view of above facts and circumstances, this Writ Petition is allowed by setting aside the impugned proceedings in C.No.19/119/G1-Cinemas/2019, dated 21.05.2019 by the 2nd respondent. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

22-11-2019

kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY



