



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

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W.P.(MD)Nos.2172 of 2013, 7369 and 5385 of 2017

and

W.M.P(MD) Nos.4312, 4802, 5781 to 5783, 8711 of 2017 &

M.P(MD)Nos.1 to 3 of 2013

W.P.(MD)No.2172 of 2013

1.R.Ravichandran (deceased)

2.R.Padmavathy

3.R.Kajendran

4.R.Navaneetharan

Petitioners 2 to 4 are impleaded vide court order

dated 18.08.2020 in WMP(MD) No.8689 of 2020

... Petitioners

Vs.

1.The Assistant Commissioner,

Zone No.1,

Madurai Corporation,

Madurai - 625 002.

2.The Assistant Commissioner,

West Zone,

Madurai Corporation,

Madurai - 625 002.

3.A.Rajendran

4.R.Sridhar

... Respondents

Prayer in W.P(MD) No.2172 of 2013 : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the No.Me.Va.3/6821/10 dated 18.12.2012 passed by the first respondent and quash the same.

W.P.(MD)No.7369 of 2017

1.R.Ravichandran (deceased)

2.R.Padmavathy

3.R.Kajendran

4.R.Navaneetharan



Petitioners 2 to 4 are impleaded vide court order dated 19.08.2020 in WMP(MD) No.8722 of 2020 ... Petitioners

Vs.

1.The Principal Secretary to Government / Revision Authority,
Home (Cinemas) Department,
Fort St. George,
Chennai - 600 009.

2.The Additional Chief Secretary / Appellate Authority (Cinemas)
and Commissioner of Land Administration,
Chepauk,
Chennai - 5.

3.The District Collector / Licensing Authority (Cinemas)
Madurai District,
Madurai - 625 020.

4.A.Rajendran

5.R.Sridhar ... Respondents

Prayer in W.P. (MD) No.7369 of 2017 : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent / Licensing Authority (Cinemas) in Ni.Mu.No.21657/2014/C1, dated 22.12.2014 and the impugned order passed by the second respondent / Appellate Authority (Cinemas) in ROC.No.L1/1538/2015, dated 09.11.2015 and the confirmation impugned order passed by the first respondent/ Revision Authority in his proceedings in G.O.(D).No.323 Home (Cinema) Department dated 14.03.2017 and quash the same and consequently direct the third respondent to restore the name of the petitioner in the 'C' form license of the "Mathi A/C Theatre", Madurai from the year 2014 - 2015, pending before this Court.

W.P. (MD) No.5385 of 2017

1.R.Ravichandran (deceased)

2.R.Padmavathy

3.R.Kajendran

4.R.Navaneetharan

Petitioners 2 to 4 are impleaded vide court order dated 21.08.2020 in WMP(MD) No.8856 of 2020 ... Petitioners

Vs.

1.The District Collector,
Madurai District,



2.The Commissioner,
Madurai Corporation,
Tallakulam,
Madurai - 625 002.

3.The Assistant Commissioner,
Zone No.1,
Madurai Corporation,
Madurai - 625 002.

4.A.Rajendran

5.R.Sridhar

... Respondents

Prayer in W.P(MD) No.5385 of 2017 : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent or his subordinates or agents from collecting / receiving the Property Tax in respect of the Assessment Nos.45079 & 45080 for the upcoming assessment years from the fourth respondent and to collect / receive the Property Tax in respect of the Assessment Nos.45079 and 45080 only from the petitioners alone till the disposal of the main writ petition in W.P.(MD) No.2172 of 2013, pending before this Court.

For Petitioners in all cases : Mr.Vallinayagam
Senior Counsel
for T.Sakthikumaran

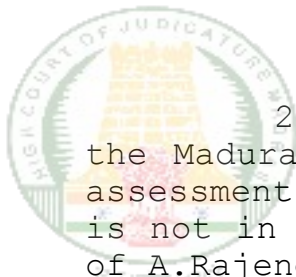
For R-1 & R-2 in WP(MD) No.2172 of 2013 and
RR1 to 3 in WP(MD)No.7369 of 2017
RR1 to 3 in WP(MD)No.5385 of 2017 : Mr.Murali,
Standing counsel

For R3 & R4 in WP(MD) No.2172 of 2013 : Mr.G.Prabhu Rajadurai
and R4 & R5 in WP(MD) No.5385 of 2017 for Mr.R.Alagumani

For R-4 & R-5 in WP(MD) No.7369 of 2017 : Mr.B.Saravanan

COMMON ORDER

Heard Mr.M.Vallinayagam, learned Senior counsel appearing for the writ petitioners and Mr.G.Prabhu Rajadurai, learned counsel appearing for the respondents 3 and 4 and Mr.Murali, learned counsel appearing for the respondents 1 and 2 and Mr.B.Saravanan, learned counsel appearing for the respondents 4 and 5 in WP(MD) No.7369 of 2017.



2.The first issue that arises for consideration is Whether the Madurai Corporation was justified in effecting mutation in the assessment register in respect of Assessment Nos.45079, 45080. It is not in dispute that the assessment originally stood in the names of A.Rajendran, R.Ravichandran and R.Sridhar. Shri.Rajendran is the father of Ravichandran and Sridhar. Serious dispute arose between them, with Ravichandran on the one side and Rajendran and Sridhar on the other. Sridhar filed a representation before the Corporation Authorities, seeking mutation in the assessment register. He also filed W.P.(MD) No.6134 of 2011 for directing the authorities to act on his representation. This Court, directed the Assistant Commissioner, Zone - 1, to hold an enquiry before passing orders on the representation. It is now claimed by the learned counsel for the respondent that Ravichandran did not take part in the enquiry.

3.It is not in dispute that the assessment is in respect of the building. The materials on record *prima facie* indicate that the Ravichandran's grand-mother A.Ayyammal, executed a lease agreement in favour of her daughter-in-law Sumathy, the wife of Rajendran and mother of Ravichandran and Sridhar. She had put up the super structure, namely, "Mathi Theatre". Sumathy passed away in the year 2000. She died intestate. Therefore, the rights in the said building devolved on her legal heirs namely, her husband Rajendran and two sons Ravichandran and Sridhar. The assessment register reflected all the three names. Therefore, the question of deleting the name of Ravichandran from the assessment register could not have arisen at all. The Assistant Commissioner had proceeded in the matter as if he was passing an *ex-parte* decree. Even if the Civil Court is passing an *ex-parte* decree, it will carefully peruse the records, satisfy itself that the plaintiff has made out his case and then pass a decree in his favour. Merely because the defendant had not entered appearance, the Civil Court cannot mechanically pass a decree in favour of the plaintiff.

4.When the Civil Court is enjoined to do so, I fail to understand as to how the Assistant Commissioner of Madurai Corporation could have accepted the claim of Sridhar as such and deleted the name of the Ravichandran. The order dated 24.12.2012 is on the face of it illegal.

5.As rightly pointed out by the learned Senior counsel, the Principles governing the exercise of jurisdiction by revenue Authorities as held in **Vishwas Footwear Company Ltd., Vs. The District Collector, Kancheepuram**, reported in 2011 (5) CTC 94, can be applied to the case on hand also.

6.The next question that arises is who must go to the Civil Court. It is obvious that Sridhar wants to effect mutation in the assessment register. Therefore, it is he who must go to the Civil Court to establish his rights. It is not correct to contend that it is Ravichandran who must go to the Civil Court.



7.It is submitted by the learned counsel on either side that Ravichandran is no more. His wife and sons have now come on record. Therefore the assessment register in Madurai Corporation in respect of subject building shall reflect the following names :

- 1) Rajendran, 2) R.Sridhar, 3) R.Padmavathy,
- 4) R.Kajendran, 5) R.Navaneetharan.

8.It is true the assessment demand will have to be raised on all these five persons, but of-course all of them, can jointly contribute for the payment of property tax. If one person alone pays the property tax, then obviously he can recover from the other assesses their share amount. If none of them pay the property tax, then the Madurai Corporation will enforce the demand, by attaching the property.

9.W.P.(MD) No.2172 of 2013 is allowed on the above terms. No costs. It is made clear that the order passed by this Court will not be construed as expression of opinion on the rival claims when the Civil Court adjudicates the issue.

10.The next contention is regarding the deleting of name of Ravichandran in the 'C' form licence. The theatre in question namely, 'Mathi theatre', was constructed by R.Sumathi, w/o.Rajendran and mother of Ravichandran and Sridhar. There is no dispute that the 'C' form licence originally reflected the name of all the three persons. Since, serious disputes among them, Rajendran applied for deleting the name of Ravichandran. The Licensing Authority accepted the case of Rajendran and deleted the name of Ravichandran by order, dated 22.12.2014. It is challenged in the writ petition in W.P(MD) No.7369 of 2017.

11.The learned counsel for the respondents submitted that 'C' form licence is personal to the licence holders and it cannot be transferred. Since, Ravichandran has passed away, according to the respondents' counsel, the whole issue has become academic. I do not agree. I am concerned with the legality of the order passed by the Licensing Authority. If I simply close this writ petition, it will send a wrong signal.

12.A careful reading of Tamil Nadu Cinemas (Regulation) Act, 1955, would clearly show that the Licensing Authority is not conferred with any jurisdiction to adjudicate the disputes among the license holders. There is absolutely no provision whatsoever. It is well settled that a statutory Authority must trace their power to some provision of law. They have no inherent powers. Therefore, the order passed by the Licensing Authority is on the face of it, is illegal and without jurisdiction. In this view of the matter, the order dated 22.12.2014 is quashed and W.P.(MD) No.7369 of 2017



13. In view of the orders passed in WP(MD) Nos.2172 of 2013 and 7369 of 2017, no orders are necessary in W.P.(MD) No.5385 of 2017 and hence, W.P(MD) No.5385 of 2017 is closed. No costs. Consequently, connected miscellaneous petitions are closed.

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Assistant Registrar (CO)

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1.The Assistant Commissioner,
Zone No.1,
Madurai Corporation,
Madurai - 625 002.

2.The Assistant Commissioner,
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Madurai Corporation,
Madurai - 625 002.

3.The Principal Secretary to Government / Revision Authority,
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Chennai - 5.

5.The District Collector / Licensing Authority (Cinemas)
Madurai District,
Madurai - 625 020.

6.The Commissioner,
Madurai Corporation,
Tallakulam,
Madurai - 625 002.

<https://hcservices.madurai.gov.in/hcservices>



+3 CC to M/s.A. THIRUMURTHY, Advocate (SR-16458,16459,16460[F]
dated 10/09/2020)

+1CC TO M/S.B.SARAVANAN, Advocate (SR-16451)

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W.P. (MD)Nos.2172 of 2013, 7369 and 5385 of 2017
(1/2)

08.09.2020

SRK (CO)

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