



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.02.2021**

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THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

WEB COPY

W.P. (MD) No.4152 of 2021

and

W.M.P. (MD) No.3343 of 2021

S.Saravanan

.. Petitioner

vs

- 1.The Joint Commissioner of Land Administration,
Land Administration Department,
Ezhilagam,
Chepauk,
Chennai.
- 2.The Additional Commissioner,
Land Administration Department,
Cinema & Irrigation,
Ezhilagam,
Chepauk,
Chennai.
- 3.The District Collector,
Licensing Authority,
Nagercoil,
Kanyakumari District.
- 4.The Commissioner,
Nagercoil Municipal Corporation,
Nagercoil,
Kanyakumari District.
- 5.The Sub Collector,
Collectorate Complex,
Nagercoil,
Kanyakumari District.
- 6.The Commissioner,
HR & CE Department,
Nungampakkam,
Chennai.
- 7.The Joint Commissioner,
HR & CE Department,
Tirunelveli.



8.The Tahsildar,
Agasteeswaram,
Kanyakumari District.

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order made in Rc.No.C2/964632/2021 dated 17.02.2021 passed by the 2nd respondent and quash the same in so far as the rejection of interim application is concerned and consequently forbearing the respondent No.1 to 4 from interfering into the running of the petitioner's theatre namely Chakravathy and Sri Mini Chakravathy comprised in T.S.No.N5/64 part, 65, 66, 67, 68, and 69 Part, situated at Rajamangalam Road, Chettikulam Junction, Nagercoil, Kanyakumari District pending disposal of the appeal petition filed by the petitioner before the 1st respondent dated 22.01.2021 by invoking Section 5(7) of the Tamilnadu Cinemas (Regulation) Act, 1955.

For Petitioner	:	Mr.Issac Mohanlal Senior Counsel for Mr.D.Sadiq Raja
For R1 to R3, R5 and R8	:	Mr.C.Ramesh Special Government Pleader
For R4	:	Mr.Aathimoola Pandian
For R6 & R7	:	Mr.K.P.Narayanakumar Special Government Pleader

ORDER

The petitioner claims himself to be a Managing Partner of Chakkaravarthy Theatres situated at Nagercoil, Kanyakumari District and being aggrieved by the order of the 2nd respondent, dated 17.02.2021, rejecting his request for grant of interim order, protecting his interest in the appeal petition filed by him in regard to his right to run the theatre under the provisions of the Tamilnadu Cinemas (Regulation) Act, 1955, he is before this Court with the present writ petition.

2.The brief facts which are necessary are stated hereunder:

3.The petitioner is the Managing Partner of the theatre complex located in Mall situated at Rajamankalam Road, Chettikulam Junction, Nagercoil, Kanyakumari District. According to him, he has two theatres, namely, Chakkaravarthy and Sri Mini Chakkaravarthy and he has been running the theatres without any interference for several years and the authority concerned has issued 'Ç' form license for the theatres in the year 1985 and the same was renewed without any issue till 31.01.2012. Thereafter, the theatres were

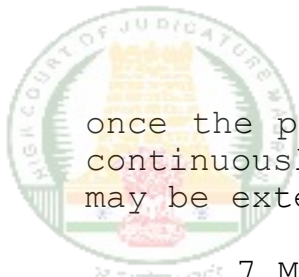


renovated and the 'C' form license was also retained by the 3rd respondent, Licensing Authority. After the renovation work was done, a request was made before the 3rd respondent for grant of 'C' form license. The same was not immediately considered, but the 3rd respondent had granted temporary permission for the petitioner to run the theatres on certain conditions.

4. In 2015, the petitioner has filed a writ petition in W.P. (MD) No.5908 of 2015 seeking a direction to issue 'E' form to run the theatres. This Court vide order dated 08.03.2018, disposed of the writ petition with a direction to issue 'E' form license to run the theatres till the 3rd respondent passes orders on the 'C' form application. Further, the 3rd respondent finally passed an order, rejecting the claim of the petitioner for issuance of 'C' form license on the ground that several mandatory documents were not produced.

5. The petitioner being aggrieved by the rejection order passed by the 3rd respondent filed yet another writ petition in W.P. (MD) No. 20488 of 2019, assailing the rejection order on various grounds. According to the petitioner, this Court on 24.09.2019, had granted an interim order, permitting the petitioner to run the theatres. Subsequently, the said writ petition came up for hearing on 08.01.2021 before the Hon'ble Division Bench of this Court along with other connected writ petitions and the Division Bench of this Court had disposed of the writ petition by giving liberty to the petitioner to file an appeal before the 1st respondent against the order dated 21.08.2019 passed by the 3rd respondent within a period of 4 weeks from the date of receipt of the copy of the order and a direction was also issued for the petitioner to approach the authority concerned seeking any interim protection till the final decision is taken. Thereafter, the petitioner preferred a departmental appeal before the 1st respondent under Section 5(7) of the Tamilnadu Cinemas (Regulation) Act, 1955 on 22.01.2021. The 1st respondent has passed an order on 17.02.2021 in the appeal, wherein, the petitioner was informed that the appeal petition would be entertained but the request for interim stay of the order passed by the 3rd respondent would not be granted. As against the same, the petitioner is before this Court.

6. Mr. Issac Mohanlad, learned Senior Counsel for Mr. D. Sadiq Raja, learned counsel for the petitioner has reiterated the above facts and would submit that the rejection order of granting interim protection to the petitioner is *per se* illegal as the petitioner has been enjoying the benefit of interim order for several years and therefore, balance of convenience is entirely in favour of the petitioner. According to the learned Senior Counsel, unfortunately, without assigning any reason, the 1st respondent has simply rejected the petitioner's interim application and therefore, the petitioner is rightly aggrieved by the impugned order. He would submit that



once the petitioner has been enjoying the right to run the theatres continuously by the orders passed by this Court, the same benefit may be extended to the petitioner at this stage as well.

7.Mr.C.Ramesh, learned Special Government Pleader appearing for the respondents 1 to 3, 5 and 8 would oppose grant of any relief to the petitioner and would draw the attention of this Court to the earlier proceedings, which had culminated in the present impugned order passed by the 1st respondent. This Court perused the earlier order passed by the Hon'ble Division Bench and find that the present writ petition is a gross abuse of process of Court as the petitioner cannot approach this Court once again in the face of clear direction passed by the Hon'ble Division Bench of this Court. It is useful to refer the decision of the Hon'ble Division Bench of this Court and the directions issued thereunder at the instance of the very same writ petitioner.

"2.This case has got a checkered history. This Court, on earlier occasion, granted interim relief only on the premise that in the earlier round of litigation, interim order has been granted by this Court. In such view of the matter, the contempt petition was closed. Now, the learned counsel for the petitioner seeks an interim protection, as the respondent No.1 is neither passing any order nor disposing of the interim application filed.

3.There are two ways open to us, namely, granting interim protection till the disposal of the appeal and granting such protection till the disposal of the interlocutory application.

4.The learned counsel for the respondent Corporation, namely, respondent No.3 submitted that the issue is pending for quite long and violation is huge. Therefore, it would be appropriate that the first respondent is directed to dispose of the appeal within a reasonable time.

5.Considering the above and taking note of the earlier order passed, we direct the authorities to maintain an order of status quo till the disposal of the appeal. This order we passed for the sole reason that earlier interim order was granted in the writ petition.

6.In such view of the matter, we direct the respondent No.1 to dispose of the pending appeal filed by the petitioner dated 22.01.2021 within eight weeks from the date of receipt of a copy of this order, of course, after hearing the respondent No.3. Till such time, status quo as of today shall be maintained. We are also constrained to note that there is no lock and seal as of now and even on that ground, there is a difference. The respondent No.1 shall consider the appeal on its own merits without



influenced by any of our observations made in the present writ petition or the earlier one."

8.From the above order passed by the Hon'ble Division Bench of this Court, how could the petitioner said to have been aggrieved by the disposal of the interim application by the 1st respondent. The said appeal petition is being entertained and not rejected, but no interim order could be granted. In fact, the Hon'ble Division Bench of this Court had granted an order of status quo to be maintained and time was also given to the appellate authority to dispose of the appeal within a period of eight weeks. Having obtained protective order in his favour on a matter of concession where is the need for the petitioner to knock the door of this Court presently? This Court is of the view that the present writ petition is not at all warranted and uncalled for and such writ petition is also against the directions issued by the Hon'ble Division Bench of this Court, which was issued at the instance of the petitioner himself.

9.It appears that the petitioner is attempting to indulge in forum shopping, which requires to be deprecated. It is unfortunate that the petitioner all along has been managing to run his theatres on the basis of certain concessional orders being passed by this Court repeatedly, on a temporary basis without establishing his right to run the theatres on his own right. Although this Court initially was inclined to dismiss the writ petition with exemplary cost, on the request made by the learned Senior Counsel for the petitioner, this Court is refraining from imposing the cost on the petitioner.

10.In view of the same, the writ petition being completely devoid of merits and substance, the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

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

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+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-7688[F] dated 26/02/2021)

+1 CC to M/s.SPL GP (SR-7908[F] dated 01/03/2021)
(SR-7891[F] dated 01/03/2021)

W. P. (MD) No. 4152 of 2021
26.02.2021

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