



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.26915 of 2005

1 ARUNA THEATRES AND ENTERPRISES PVT. LTD.
3, ASHOK PILLAR ROAD, ASHOK NAGAR CHENNAI -83.

2 K. MUTHUSAMY
MANAGING DIRECTOR,
ARUNA THEATRES AND ENTERPRISES PVT. LTD.
3, ASHOK PILLAR ROAD
ASHOK NAGAR, CHENNAI -83.

..Petitioners

Vs

1 N. SHANKARANARAYANAN
2, ASHOK PILLAR ROAD,
ASHOK NAGAR,
CHENNAI - 83.

2 N. ARUNACHALATHAMMAL,
41, DEFENCE OFFICERS COLONY,
EKKATUTHANGAL,
CHENNAI -32.

3 GOVERNMENT OF INDIA
MINISTRY OF COMPANY AFFAIRS,
5TH FLOOR, A-WING, SHASTRI BHAVAN,
DR. RAJENDRA PRASAD ROAD,
NEW DELHI - 110 001.

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned order file No. 10/42/2004-CL. IV dated 3.2.2005 on the file of the third respondent and quash the same.

For Petitioner : Mr.V.Ramakrishnan

For Respondents : Mr.A.K.Raghavulu
for R1 and R2
M/s.Venkatasamy Babu
SPCGOI for R3



O R D E R

This writ petition has been filed challenging the order passed by the 3rd respondent, dated 03.02.2005 in exercise of its power and jurisdiction under Section 399(4) of the Companies Act, 1956 (hereinafter called as the Act).

2.The 1st and 2nd respondents filed a company petition under Section 397 and 398 of the Companies Act before the Company Law Board, Chennai under Section 397 and 398 of the Act against the petitioners on the ground of oppression and mismanagement. An objection was taken up by the petitioners on the ground that the petition is not maintainable since the respondents 1 and 2 do not fulfill the requirements of share holding as prescribed under the Act. The respondents 1 and 2 sought for permission to withdraw the petition and the CLB dismissed the petition as withdrawn.

3.Thereafter the respondents 1 and 2 filed a petition under Section 399 (4) of the Act before the 3rd respondent seeking for permission for authorization to apply before the Company Law Board for proceeding against the petitioners on the ground of oppression and mismanagement. Notice was ordered to the petitioner and ultimately, the 3rd respondent after hearing all the parties allowed the application through an order dated 03.02.2005. Aggrieved by the same, this writ petition has been filed before this Court.

4.Heard Mr.V.Ramakrishnan, learned counsel for the petitioner and Mr.A.K.Raghavulu, learned counsel for respondents 1 and 2 and M/s.Venkatasamy Babu, learned counsel SPCGOI for 3rd respondent.

5.It may not be necessary for this Court to go into the grounds raised in this writ petition against the order passed by the 3rd respondent in view of certain subsequent developments.

6.It is brought to the notice of this Court that petition was filed for oppression and mismanagement before the Company Law Board and the same was allowed and aggrieved by the same, the petitioners and yet another Director filed Appeal No.6 of 2009 before this Court and the said appeal was dismissed by this Court by an order dated 21.01.2011. This was challenged before the Apex Court and it is stated that the SLP was also dismissed. Thereby, the order passed against the petitioners for oppression and mis-management became final.

7.It is further brought to the notice of this Court that the respondents 1 and 2 have initiated recovery proceedings and the same is now pending before the NCLT, Chennai Bench.



8. The above developments have substantially watered down the relief sought for in this writ petition and it will be an academic exercise to deal with the merits of the case since the ground of oppression and mismanagement has already been found against the petitioners.

9. In view of the above discussion, this writ petition stands closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

rka

To

GOVERNMENT OF INDIA
MINISTRY OF COMPANY AFFAIRS,
5TH FLOOR, A-WING,
SHASTRI BHAVAN,
DR. RAJENDRA PRASAD ROAD,
NEW DELHI - 110 001.

+1cc to M/s.A.K.Raghavalu, Advocate, S.R.No.33469

W.P.No.26915 of 2005

SSI(CO)
RGA(23/06/2022)