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W.P.No.40620/2015



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 02-11-2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.40620 of 2015

K.Sundarraaj

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Petitioner

-VS-

1.The Appellate Authority/Additional Chief Secretary and
Commissioner of Land Administration,
Land Administration Department,
Chepauk,
Chennai – 60 005.

2.The District Collector,
Krishnagiri District.

3.V.Rajamma

4.Sampath Lakshmi

5.K.Girija @ Padmavathi

6.The Principal Chief Secretary to Government,
Home (Cinema) Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

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Respondents

Petition under Article 226 of the Constitution of India, praying for issuance
of a writ of mandamus, to direct the second respondent to consider the application, dated



25.04.2015, given by the petitioner to issue C form license in his name in respect of Srinivasa Theatre, Hosur, Krishnagiri District, and forthwith grant C form license in the name of the petitioner in respect of the said theatre.

For Petitioner : Mr.AR.L.Sundaresan,
Senior Counsel,
for Mrs,AL.Ganthimathi.

For Respondents 1 & 2 : Mr.D.Gopal,
Addl.Govt.Pleader.

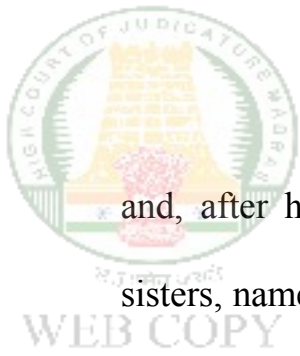
For Respondents 3 to 5 : Mr.Sunny Sheen,
for Mr.V.Lakshminarayanan.

For Respondent 6 : Mr.P.Sathish,
Addl.Govt.Pleader.

ORDER

This Writ Petition has been filed praying for a direction to the second respondent to consider the application, dated 25.04.2015, given by the petitioner to issue C form license in his name in respect of Srinivasa Theatre, Hosur, Krishnagiri District, and forthwith grant C form license in the name of the petitioner in respect of the said theatre.

2. The case of the petitioner is that C-Form License to run Srinivasa Theatre, Hosur, Krishnagiri District, originally stood in the name of his father late PM.Krishnappa



and, after his death in the year 1983, the petitioner and his brothers along with two sisters, namely, respondents 4 and 5 had given no objection for transferring of the C-Form License in the name of the third respondent, who is none other than their mother, and, accordingly, the license was transferred in her name in the year 1985. Though the license was in the name of their mother, the petitioner and his elder brother were running the theatre on behalf of the Hindu Undivided Family and, after the death of his elder brother, the petitioner has been managing the theatre from the year 2002 onwards by renewing the C-Form License periodically by submitting necessary applications before the second respondent. When the petitioner applied for renewal of C-Form License of the theatre in the year 2012, an inspection report was called for from the Sub-Collector, Hosur, and the application was not considered, on the ground that there were certain objections from the third respondent. A suit was also filed in respect of the same in O.S.No.86 of 2011 for partition on the file of District Judge, Krishnagiri, and one more suit for injunction in O.S.No.35 of 2012 on the file of Subordinate Judge, Hosur, Krishnagiri. Now the theatre is in possession of four persons and the other three have also given no objection for the license to be given in the name of the petitioner. The said no objection has also been sent to the second respondent. However, the second respondent has not considered the application to include the petitioner's name in C-Form License. Hence, he has filed this Writ Petition.



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3. A Counter has been filed by the second respondent, wherein it is stated that original license was in the name of the mother of the writ petitioner. The license was renewed up to 31.08.2012 and thereafter it was not renewed due to some family disputes.

4. Respondents 3 to 5 and filed a Counter affidavit, stating that the petitioner cannot seek for renewal of the license independently and that the second respondent has rightly cancelled the license, after hearing all the parties. Accordingly, they opposed the Writ Petition.

5. It is not disputed by both the sides that originally the license was in the name of the mother of the parties, namely, the writ petitioner and the respondents 4 and 5 till her death. Theatre was run by her and after her death, disputes arose among the children of the original owner, which resulted in filing of O.S.No.86 of 2011 on the file of District Judge, Krishnagiri, for partition, and one more suit in O.S.No.35 of 2012 on the file of Subordinate Judge, Hosur, Krishnagiri District, for injunction, which are pending. It is now stated before this Court that evidence is almost over in the above suits and the matters are posted for final arguments. The second respondent - District Collector has cancelled the license on 20.05.2015, after giving opportunity to all the parties and



following the rules, and after the Government has passed an order, rejecting the application of the petitioner.

6. The contention of the learned Senior Counsel for the petitioner is that the petitioner, being a co-owner, is entitled to license. According to him, every co-owner is having a right to enjoy the property and make use of the same without detriment to other co-owners. Since the petitioner was managing the theatre along with his mother, he is entitled to run the theatre. He would also submit that mere issuance of license in favour of the petitioner will not affect the rights of other co-owners in the partition suit.

7. On the other hand, learned counsel for the respondents would submit that the application for license to run cinema theatre to be signed by all the parties, who are having right to title over the property. He also relied upon a decision of this Court in *AVM Theatre v. State of Tamil Nadu*, 1997 (1) MLJ 116.

8. It is relevant to extract Rule 13 (1) of the Tamil Nadu Cinemas Regulation Rules, 1957, as under :

"13 (1). If the applicant for the licence is the owner of the site, building and equipment, he shall produce to the licensing authority the necessary records relating to his ownership and possession thereof. If



he is not the owner, he shall, to the satisfaction of the licensing authority, produce documentary evidence to show that he is in lawful possession of the site, building and equipment."

9. The above rule makes it clear that a person, who applies for licence or renewal of licence, is required to produce necessary records before the licensing authority, not only relating to the ownership but also possession. Therefore, merely on the basis of co-ownership, the petitioner cannot contend that he is in exclusive possession of the theatre to seek for renewal of licence. As every co-owner has right in the joint family property, that right does not confer exclusive possession on the petitioner.

10. In such view of the matter, as long as there is a dispute between the parties, which is already seized off by the Civil Court in O.S.No.86/2011 on the file of District Judge, Krishnagiri, wherein the evidence is almost over and the matter is at the stage of arguments, and when the petitioner is not in exclusive possession and the theatre is closed for many years, this Court is of the view that the order passed by the second respondent – District Collector, dated 20.05.2015, cancelling the C-Form Licence granted to Srinivasa Theatre, Hosur, cannot be found fault with. Accordingly, this Writ Petition is dismissed. It is well open to the petitioner to apply for licence afresh, depending upon his rights determined in the partition suit, referred to above. No costs. Consequently, the



connected M.P.No.1 of 2015 and W.M.P.No.9876 of 2016 are also dismissed.

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Speaking / Non-speaking Order
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To

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