



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.17285 OF 2020

AND

W.M.P.NO.21377 OF 2020

M.Ganesan

... Petitioner

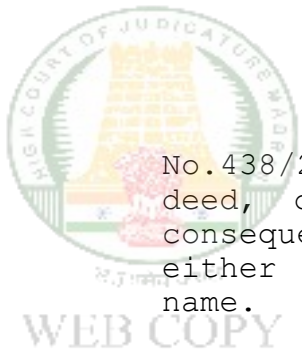
Vs.

1. The District Collector,
Tiruppur,
Tiruppur District.
2. The Sub Collector,
Office of the Sub Collector,
Tiruppur.
3. The Superintending Engineer,
PWD, Planning and Designs Circle,
Chepauk,
Chennai - 05.
4. Diamond Theatre,
Rep. by its Partners
Tiruppur-641 604.
5. M.Muthusamy
6. R.Manoharan
7. D.Thayammal
8. N.Bharath Kumar
9. R.Rajendran
- 10.M.Balasubramaniam

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Ceteriorarified Mandamus to call for the entire records of the respondents 1 to 3 in connection with the impugned order vide proceedings in Mu.Mu.No.8737/2018/E1, dated 27.09.2019 and consequential direction, directing the respondents 1 to 3 to include the petitioner name in the C-Form and E-Form License pertain to Diamond Theatre, situated in New Door No.302/228, in SF.No.185/2, TS.No.438/2D/13/3; Door



No.438/2, in Mangalam Road, Tiruppur, as per the Partnership deed, dated 01.05.1994 and Sale Deed, dated 08.03.1995 and consequently forbearing the respondents 1 to 3, not to extent either C-Form or E-Form temporary License without including my name.

For Petitioner : Mr.Ma.P.Thangavel

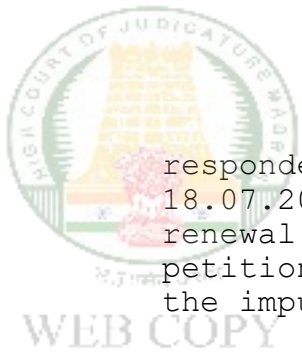
For Respondents : Mrs.C.Sangamithirai for R1 to R3
Special Government Pleader
Mr.P.Elayarajkumar for R4 to R10
for M/s.Ramalingam and Associates

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari Mandamus to call for the entire records of the respondents 1 to 3 in connection with the impugned order vide proceedings in Mu.Mu.No.8737/2018/E1, dated 27.09.2019 and consequential direction, directing the respondents 1 to 3 to include the petitioner name in the C-Form and E-Form License pertain to Diamond Theatre, situated in New Door No.302/228, in SF.No.185/2, TS.No.438/2D/13/3; Door No.438/2, in Mangalam Road, Tiruppur, as per the partnership deed, dated 01.05.1994 and sale Deed, dated 08.03.1995 and to consequently forbearing the respondents 1 to 3, not to extent either C-Form or E-Form temporary License without including the petitioner's name.

2.The case of the petitioner is that on 01.05.1994, the petitioner and seven others entered into a partnership deed to run a cinema theatre under the name and style of Diamond Theatre and accordingly on 08.03.1995 the petitioner purchased 90-1/2 cents in Mangalam Road, Tiruppur District with land, building, equipments and furniture and fittings and became the absolute owner of the same. The partners continue to pay the rent as well as share in the business continuously. Whiles, on 01.08.1998, respondents 9 and 10 colluded with other partners and created a document as if the petitioner retired from the partnership firm.

3.The further case of the petitioner is that the petitioner preferred complaint before the Commissioner of Police, Tiruppur on 01.02.2018 as against the respondents 6 and 9. On 21.05.2018, the petitioner came to know that C - Form licence to run the cinema theatre was obtained by forging certain documents and hence, he made representation before the first respondent and the first respondent forwarded the same to the second



respondent for conducting enquiry. The ninth respondent on 18.07.2018 made application to the first respondent seeking renewal of C - Form licence without getting NOC from the petitioner or his signature in the application and thereafter, the impugned order was passed. Hence, this writ petition.

4.The learned counsel appearing for the petitioner submitted that admittedly, the petitioner purchased the subject property, whileso, the ninth respondent who is neither a partner nor owner of the cinema theatre applied for renewal of C - Form licence before the first respondent that too without getting NOC from the petitioner or his signature in the application and the C - Form licence was also renewed mechanically. Hence, the impugned order warrants interference.

5.The learned Special Government Pleader appearing for the Official respondents submitted that the petitioner has approached this Court without clean hands by suppressing the facts which is un-sustainable one and further submitted that the impugned order was rightly passed and it does not warrant any interference and further submitted that the petitioner instead of approaching the competent Civil Forum has filed this writ petition, which is un-sustainable one.

6.The learned counsel appearing for the private respondents submitted that originally C - Form licence was issued in the name of one Karupanna Gounder, Proprietor of Diamond Theatre on 26.03.1964. The petitioner joined as partner for running the Theatre on 01.05.1994 along with the said Karupanna Gounder and other partners. The petitioner purchased 15% of undivided share of land and building in the said Theatre from one Palanisamy son of Karupanna Gounder on 08.03.1995. Thereafter, petitioner entered into a sale agreement dated 04.04.1996 with one Subramaniam agreeing to sell the 15% undivided share of land and building in the Theatre.

7.The learned counsel appearing for the private respondents further submitted that since the petitioner did not come forward to complete the sale transaction, the said Subramaniam filed suit for specific performance in O.S.No.181 of 1998 and the said suit was decreed as against the petitioner on 07.11.2000. Thereafter, the petitioner filed application with a delay of 792 days seeking to set aside the exparte decree dated 07.11.2000 and the same came to be dismissed on 19.12.2003 and challenging the same, the petitioner filed C.R.P.No.67 of 2004 before this Court and the same was dismissed on 09.03.2004 and aggrieved by the same, the petitioner filed Review petition seeking to review the order passed in C.R.P.No.67 of 2004 and the same was dismissed on 09.08.2011. Thereafter, the said Subramaniam filed Execution Petition in E.P.No.66 of 2014 and the same is pending.



8.The learned counsel appearing for the private respondents further submitted that the petitioner resigned from the Firm on 01.08.1998 and on account of the demise of said Karupanna Gounder, C - Form licence transferred in the name of his son Palanisamy on 05.08.1998. The learned counsel further submitted that the complaint lodged by the petitioner was closed as 'further action dropped'. Thereafter, the petitioner approached respondents 1 and 2 by making false complaint and after detailed enquiry, the complaint made by the petitioner was rejected.

9.The sum and substance of the submissions made by the learned counsel appearing for the private respondents is that the petitioner entered into a sale agreement with one Subramaniam agreeing to sell the 15% undivided share of land and building in the Theatre and since the petitioner did not come forward to complete the sale transaction, the said Subramaniam filed suit for specific performance and the petitioner did not succeed in the said suit. Thereafter, the efforts taken by the petitioner ended in vein and till date the execution petition filed by the said Subramaniam is pending. Hence, the relief sought for by the petitioner is not sustainable one.

10.Heard the arguments advanced on either side and perused the materials available on record.

11.Perusal of records reveal that that originally C - Form licence was issued in the name of one Karupanna Gounder, Proprietor of Diamond Theatre on 26.03.1964. The petitioner joined as partner for running the Theatre on 01.05.1994 along with the said Karupanna Gounder and other partners. The petitioner purchased 15% of undivided share of land and building in the said Theatre from one Palanisamy son of Karupanna Gounder on 08.03.1995. Thereafter, petitioner entered into a sale agreement dated 04.04.1996 with one Subramaniam agreeing to sell the 15% undivided share of land and building in the Theatre.

12.Perusal of records further reveals that since the petitioner did not come forward to complete the sale transaction, the said Subramaniam filed suit for specific performance in O.S.No.181 of 1998 and the said suit was decreed as against the petitioner on 07.11.2000. Thereafter, the petitioner filed application with a delay of 792 days seeking to set aside the exparte decree dated 07.11.2000 and the same came to be dismissed on 19.12.2003 and challenging the same, the petitioner filed C.R.P.No.67 of 2004 before this Court and the same was dismissed on 09.03.2004 and aggrieved by the same, the petitioner filed Review petition seeking to review the order passed in C.R.P.No.67 of 2004 and the same was dismissed on 09.08.2011. Thereafter, the said Subramaniam filed Execution



Petition in E.P.No.66 of 2014 and the same is pending.

13.Perusal of records further reveal that the petitioner resigned from the Firm on 01.08.1998 and on account of the demise of said Karupanna Gounder, C - Form licence transferred in the name of his son Palanisamy on 05.08.1998.

14.The grievance of the petitioner is that C - Form licence was renewed without getting NOC from the petitioner or his signature in the application. However, the fact remains that the petitioner entered into a sale agreement with one Subramaniam agreeing to sell the 15% undivided share of land and building in the Theatre and since the petitioner did not come forward to complete the sale transaction, the said Subramaniam filed suit for specific performance and the said suit was decreed as against the petitioner. Thereafter, application filed by the petitioner seeking to set aside the exparte decree; civil revision petition; review petition filed by the petitioner were all dismissed and till date the execution petition filed by the said Subramaniam is pending. Unless the petitioner establish that he hold 15% undivided share of land and building in the Theatre purchased from one Palanisamy son of Karupanna Gounder, the relief sought for by the petitioner in this writ petition is un-sustainable one. Further, the petitioner instead of approaching the competent Civil Forum has filed this writ petition, which is un-sustainable one.

15.In view of all the above, this Court is not inclined to grant the relief sought for by the petitioner. The writ petition is accordingly dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Tiruppur,
Tiruppur District.



2. The Sub Collector,
Office of the Sub Collector,
Tiruppur.

3. The Superintending Engineer,
PWD, Planning and Designs Circle,
Chepauk,
Chennai - 05.

+2ccs to M/s.Ramalingam,& Associates Advocate, S.R.No.3666

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.3906

+1cc to the Government Pleader, S.R.No.4016

W.P.No.17285 of 2020

And

W.M.P.No.21377 of 2020

NRL (CO)

PM/24/02/2022