

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Cont.P(MD).No.420 of 2022

in

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

S.Saravanan

... Petitioner/Petitioner

Vs.

Aravind I.A.S.,
The District Collector,
Licensing Authority,
Nagercoil, Kanyakumari District.

...Contemnors/ 3rd
Respondent

PRAYER: Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondent/contemnor for the disobedience of the order of this Court made in W.P(MD).No.4152 of 2021 dated 26.02.2021.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondent : Mr.A.Kannan
Additional Government Pleader

ORDER

This contempt petition has been filed by the petitioner to punish the respondent/contemnor for the disobedience of the order of this Court made in W.P(MD).No.4152 of 2021, dated 26.02.2021.

2. The petitioner is the Managing Partner of Chakkaravathy Theatre & Sri Mini Chakkaravathy Theatre, which are functioning in the lands belonged to “Kottar Chettu Nainnar Desika Vinyagar Devaswom Trust” and lease was granted to them in respect of the said land and they have constructed the said Theaters. Form-C licence was issued by the respondent in Licence No.2/84-85, dated 30.06.1984. The said licence was transferred to the petitioner on 12.06.1991 and the same was renewed periodically upto 31.01.2012. The petitioner has intended to renovate the Theaters. During the course of renovation, the respondent has withheld the licence. On completion of renovation, the petitioner approached the respondent to renew the Form-C licence. The respondent has granted only Form-E temporary permit to run the Theaters. While that being so, without any notice to the petitioner, the respondent has prevented the petitioner to run the Theaters. Aggrieved by the same, the petitioner has approached this Court by way of filing a writ petition in W.P(MD).No.5908 of 2015.

3. This Court, after hearing both sides, by order, dated 08.03.2018 directed the authority to pass order on the application filed by the petitioner seeking Form-C licence and till such time, the petitioner was granted with Form-E licence to run the Theaters. As per order of this Court, the respondent has considered the petitioner's application and rejected the same on 21.08.2019. Thereafter, notice was issued on the petitioner under Section 56 of the Tamil Nadu Town and Country Planning Act, 1971. Challenging the same, the petitioner filed W.P(MD).No.16954 of 2019, which came to be allowed by the Hon'ble Division Bench of this Court, dated 25.06.2019 and remanded the matter back to the planning authority. On such remand, a similar order has been passed, which necessitated the petitioner to file W.P(MD).No.6232 of 2020, wherein *status-quo* was granted, till that writ petition was disposed of. In the meantime, the authority refused to grant Form-C licence. In this regard, the petitioner filed W.P(MD).No. 20488 of 2019. All the writ petitions were taken up for final disposal together on 08.01.2021 and the Hon'ble Division Bench permitted the petitioner to approach the appellate authority by filing interim application and directed the authorities not to take any coercive action, till such time. With regard to cancellation of Form-C licence, the petitioner was permitted to file statutory appeal. The petitioner has

preferred a statutory appeal and obtained an interim order of carrying business. Thereafter, the petitioner has filed a number of writ petitions.

4.The petitioner filed W.P(MD).No.4152 of 2021 to quash the impugned order made in RC.No.C2/964632/2021, dated 17.02.2021 passed by the Additional Commissioner, Land Administration Department in rejecting his interim application and forbear the respondents from interfering into the running of the petitioner's Theater till the disposal of the appeal filed by the petitioner. The said writ petition was taken up for hearing and after elaborate consideration, this Court passed the following order:

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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."

5. Now, the petitioner filed this contempt petition stating that the respondents did not obey the order of this Court, which is abuse of process of law. The petitioner has no *locus standi* to file such contempt petition. It is made clear that when a writ petition itself was dismissed, the Contempt Petition does not arise at all. Regarding the order of the Hon'ble Division Bench, if there is any violation, he has to approach the Hon'ble Division Bench and not before this Court.

6. It is also informed this Court that the appeal filed by the petitioner was dismissed on 31.03.2022. A lengthy order has been passed by the authorities i.e., the Additional Commissioner, Land Administration Department, on 31.03.2022 in proceedings No.C2/964632/2021, wherein it has been made clear that after detailed enquiry and with available documents, it is evident that there is no merit

in the appeal. Hence, it was concluded that there was no valid reason to interfere with order of Licensing Authority/District Collector, Kanyakumari District and that appeal was dismissed as devoid of merits. However, the petitioner can appeal for revision to the Government within 30 days from the date of receipt of the order.

7.In reply, the petitioner submits that he had no knowledge about the same. The said submission was rejected. Since there is no contempt by the authority, this Contempt Petition stands dismissed. However, the act of the petitioner is condemned. Hence, this Court deems it fit to impose an exemplary cost on the petitioner. The petitioner is directed to pay a sum of Rs.20,000/- [Rupees Twenty Thousand only], to the credit of the Head Master, Madurai East Panchayat Union Primary School, Y.Othakadai, Madurai – 625 107 [S.B. A/c.No.10111536270, State Bank of India, IFSC Code:SBIN0002246], within a period of one week from the date of receipt of a copy of this order.

8.Post for compliance on **08.11.2022.**

11.10.2022

Index : Yes / No

Internet : Yes / No

Rmk

V.BHAVANI SUBBAROYAN,J.,

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To
The District Collector,
Licensing Authority,
Nagercoil, Kanyakumari District.

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