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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 19.06.2023

Delivered on: .06.2023

CORAM

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

W.P.No.17496 of 2023
and W.M.P.No.16631 of 2023
&
Crl.O.P.No.13504 of 2023
and Crl.M.P.No.8193 of 2023

In W.P.No.17496 of 2023

Film & Television Producers' Guild of South India,
Rep, by its President, Dr. Jaguar Thangam,
B1, Rams Flat, New No.19 (Old No.05),
Jagatheeswaran Street, Chennai – 600 017.

...Petitioner

Vs

1. The Secretary to Government,
Department of Revenue,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.
2. The Sub Divisional Magistrate Cum
The Revenue Division Officer,
South Chennai Division, Guindy,
Chennai – 600 032.
3. The Inspector of Police,
Law & Order,
R-1, Mambalam Police Station,
T.Nagar, Chennai – 600 017.

4. P.Duraisamy

...Respondents



In Crl.O.P.No.13504 of 2023

P.Duraisamy

...Petitioner

Vs

1. The Revenue Divisional Officer/Executive Magistrate
(South Chennai), Guindy,
Anna Salai, Guindy,
Chennai – 600 032.
(Next to MGR University)

2. Jaguar Thangam.

.... Respondents

PRAYER in W.P.No.17496 of 2023 : Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Mandamus calling for the record of the 2nd respondent relating to the impugned order No.A1/2123/2023 dated 31.05.2023 issued by the 2nd respondent, quash the same and consequently permit the petitioner Guild to perform its day to day affairs from its premises for the welfare of its members.

For Petitioner : M/s.Ravi Padmanaban (Senior Counsel)
for M/s. R.Maheswari

For R1 to R3 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



PRAYER in CrI.O.P.No.13504 of 2023: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and set aside the order in Che.Mu.Aa.No.Aa1/2123/2023 on the file of the Executive Magistrate/ Revenue Divisional Officer, Guindy dated 31.05.2023.

For Petitioner : A.Joseph Sagayaraj

ORDER

Writ Petition in W.P.No.17496 of 2023 is filed to call for records of the 2nd respondent relating to the impugned order No.A1/2123/2023 dated 31.05.2023 issued by the 2nd respondent, quash the same and consequently permit the petitioner Guild to perform its day to day affairs from its premises for the welfare of its members.

Criminal Original petition in CrI.O.P.No.13504 of 2023 is filed to call for the records and set aside the order in Che.Mu.Aa.No.Aa1/2123/2023 on the file of the Executive Magistrate/ Revenue Divisional Officer, Guindy dated 31.05.2023.

2. The learned Senior counsel for the petitioner in W.P.No.17496 of 2023 submitted that, petitioner is the president of Film & Television Producers' Guild of South India. Petitioner Guild provides title search and registration services,



which can only be availed by the members of the Guild. Petitioner Guild issues title Certificate as required by its members for the purpose of certification of films by the Central Board for Film Certification (CBC). It also issues Publicity Clearance Certificates to its members for being used as supporting document for censoring and also for publication in the Newspaper. There are about 30 producer members, who have produced films through the Guild and are awaiting Publicity Clearance Certificate. 4th Respondent has not produced even a single movie as on date. Along with others who have not produced any movies, 4th respondent wanted to stall the functioning of the Guild with ulterior motive of looting the Guild of its money and credibility. To protect the interest of producer members of Petitioner Guild, W.P.No.21129 of 2022 was filed against the Central Board of Film Certification (CBFC). This Court vide order dated 21.02.2023, directed the Central Board of Film Certification (CBFC) to accept the publicity clearance certificates issued by the Petitioner Guild. Based on the representations of the fourth respondent and others, Registrar of Societies issued notice under Section 44(3)(b) of the Tamil Nadu Societies Registration Act. However, challenging the notice, Petitioner Guild filed W.P.No.7347 of 2019 before this Court and this Court passed an order staying the notice dated 13.03.2019. 4th respondent and others sought directions for police protection in CrI.O.P.No.7881 of 2019 to enter the petitioner's premises. Petitioner entered



appearance as an intervenor, and this Court dismissed the petition seeking police protection on 25.03.2019. Petitioner Guild filed C.S.No.448 of 2019 against the agents of the 4th Respondent seeking permanent injunction restraining usage of trademark of Petitioner Guild. C.S.No.512 of 2018 was filed by the 4th respondent and others for the relief of declaration and injunction. In O.A.Nos.707 to 709 of 2018 in C.S.No.512 of 2018, injunction was granted in favour of the Secretary. O.S.A. No.371 of 2018 was filed by the petitioner against the 4th respondent and others against the order passed in C.S.No.512 of 2018, wherein this Court appointed Hon'ble Mr.Justice Rajasuriya, Former Judge of this Court and then Hon'ble Mr.Justice D.Murugesan and Hon'ble Mr.Justice Shanmugam as observers for conducting election. Then on 25.07.2022, Hon'ble Division Bench appointed Hon'blr Mr.Justice M.Sathyanarayanan and Hon'ble Mr.Justice V.Bharathidasan, Former Judges of this Court, as conveners to conduct the General Body Meeting and to conduct the election of the Petitioner Guild. When the matter is pending before the Civil Forum, order passed by the 2nd respondent/ Executive Magistrate/Revenue Divisional Officer, Guindy by a proceeding in Che.Mu.Aa.No.A1/2123/2023 is illegal and it is beyond the scope of Section 145 of Cr.P.C.



3. In support of his submission, learned counsel for the petitioner produced the order passed by this Court in CrI.O.P.No.7881 of 2019, order passed by Division Bench of this Court in O.S.A.No.371 of 2018 dated 16.12.2019 and order passed by the Division Bench of this Court in O.S.A.No.371 of 2018 on 25.07.2022.

4. In reply, learned counsel appearing for the 4th respondent in W.P.No.17496 of 2023 and petitioner in CrI.O.P.No.13504 of 2023 submitted that, certain material facts have been suppressed by the learned Senior counsel for the petitioner in W.P.No.17496 of 2023. He further submitted that, 4th respondent and others filed suit in C.S.No.512 of 2018 seeking permanent injunction restraining the defendants therein, not to interfere with the petitioner's function as Secretary of the Film & Television Producers' Guild of South India along with other reliefs. In the suit, applications had been filed seeking various interim reliefs. This Court on 01.08.2018, ordered the parties to maintain status quo. It has also been ordered that “the plaintiffs, who are elected as Treasurer and Secretary to discharge their duties as per law, which cannot be prevented and there cannot be any act preventing the plaintiffs from discharging their duties by the respondents”.



5. It is the further submission of the learned counsel for the 4th respondent that, there is an order to maintain status quo and that two of the plaintiffs who were elected as Treasurer and Secretary, cannot be prevented from discharging their duties.

6. The learned counsel for the 4th respondent also challenges the order passed by the 2nd respondent/ Executive Magistrate/Revenue Divisional Officer, Guindy by a proceedings in Che.Mu.Aa.No.A1/2123/2023 for the reason that the order passed without following the procedure. Order for keeping the premises under lock and key without reference to the Section 146 of Cr.P.C is illegal. There is no dispute with regard to the land and water is involved in this case, but the dispute is only with regard to conduct of administration and management of the Film & Television Producers' Guild of South India.

7. Considered the rival submissions and perused the records. The order passed by the 2nd respondent/ Executive Magistrate/Revenue Divisional Officer, Guindy by a proceedings in Che.Mu.Aa.No.A1/2123/2023 dated 31.05.2023 reads that, “there is a dispute between 'A' Party headed by Jaguar Thangam and 'B' Party headed by P. Duraisamy with regard to the running of Film & Television Producers' Guild of South India. It is observed that on 22.05.2023,



there was a riot at Guild and it was agreed by both the parties that, Guild would be kept under lock and key and accordingly, it was locked. Then on 13.05.2023, Jaguar Thangam and his men had broken the lock and taken possession of the cash, files, hard disks, pen drives and other things from the Guild. As a result, FIR in Crime No.781 of 2022 was registered under Section 145 of Cr.P.C. It is also observed in this order that, there are litigations filed and pending before this Court in CrI.O.P.No.7881 of 2019, C.M.P.No.16131 of 2019 and O.S.A.No.371 of 2019 and CrI.O.P.No.12040 of 2019. There is also pending dispute with regard to conduct of election. Under the said circumstances, if the parties are permitted to use the premises, it would lead to law and order issue” and thus the impugned order was passed for keeping the premises under lock and key with the seal of Tahsildar.

8. From the narration of facts and from the pending litigations, it is evident that, there is apparently a dispute between the petitioner, 4th respondent and others in managing the affairs of Film & Television Producers' Guild of South India. As said earlier, Hon'ble Mr.Justice M.Sathyanarayanan and Hon'ble Mr.Justice V.Bharathidasan, Former Judges of this Court were appointed as observers for conducting elections. It is seen from the minutes of the meeting held at 11.00 A.M on 04.03.2023 at Madras High Court Arbitration Centre, it was



observed in para(2) that," Mr.Jaguar Thangam, President of the Producers' Guild successfully managed to drag on the proceedings for more than 50 days as he is continuing as the President. Mr.D.Selvaraju, Mr.S.Thangavelu and Mr.L.Murali Krishnan were appointed as members to assist the Election Officers.

9. The minutes of the meeting held at Madras High Court Arbitration Centre at 11.30.a.m on 04.03.2023 shows that, “parties were represented by the Counsel at the meeting on 22.05.2023 and it was agreed that the appellant should furnish the list of members among 1536, who are said to be in arrears, beyond the time stipulated, to the Commissioners forthwith. The Commissioners were directed to verify the fact / allegations with the records made available by the appellant and submit the report on or before 02.06.2023, after serving it upon Mr.Joseph Sagayaraj, learned counsel appearing for R4, R6, R10, R14, R16, R19 & R20 and Dr.R.Maheshwari, learned counsel appearing for the appellant.”

10. This Minutes shows that, on 22.05.2023, parties appeared before the meeting convened by conveners and participated. However, in the impugned order, it was alleged that on 22.05.2023, there was a riot in the premises of Film & Television Producers' Guild of South India, which may not be true.



11. It is seen from the submission of the learned counsel appearing for the parties and from the material produced that there is already a civil suit in C.S.No.512 of 2018 is pending with regard to the right claimed by the parties in running the affairs of the Guild. When the Civil Suit is pending, impuged order passed by the 2nd respondent/ Executive Magistrate/Revenue Divisional Officer, Guindy by a proceedings in Che.Mu.Aa.No.A1/2123/2023 is not appropriate and it is against law. This view is supported by the judgement of the **Hon'ble Supreme Court of India** in **Ram Sumer Puri Mahant Vs. State of U.P and Others** in **Crl.A.No.655 of 1984**, wherein it is held as follows:

"When a civil litigation is pending for the property wherein the question of possession is involved and has been adjudicated, we see hardly any justification for initiating a parallel criminal proceeding under [Section 145](#) of the Code. There is no scope to doubt or dispute the position that the decree of the Civil Court is binding on the criminal court in a matter like the one before us. Counsel for respondents 2-5 was not in a position to challenge the proposition that parallel proceeding should not be permitted to continue and in the event of a decree of the Civil Court, the criminal court should not be allowed to invoke its jurisdiction particularly when possession is being examined by the civil court and parties are in a position to approach the civil court for interim orders such as injunction or appointment of receiver for adequate protection of the



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property during dependency of the dispute. Multiplicity of litigation is not in the interest of the parties nor should public time be allowed to be wasted over meaningless litigation. We are, therefore, satisfied that parallel proceedings should not continue and the order of the learned Magistrate should be quashed. We accordingly allow the appeal and quash the order of the learned Magistrate by which the proceeding under [Section 145](#) of the Code has been initiated and the property in dispute has been attached. We leave it open to either party to move the appellate judge in the civil litigation for appropriate interim orders, if so advised, in the event of dispute relating to possession."

12. Relying on this judgment, Hon'ble High Court of Andhra Pradesh at Amaravati in U.Ramanjaneyulu Vs. State of Andhra Pradesh and Others in a case in W.P.No.18601 of 2019 observed as follows:

"The principle laid down in Ram Sumer Puri Mahant's case (supra), was upheld by the Apex Court in its another decision reported in Amresh Tiwari v. Lalta Prasad Dubey, MANU/SC/0265/2000: 2000 (2) ALD (CH.) 238 (SC): AIR 2000 SC 1504. It wa observed thus:

"Para 13: We are unable to accept the submission that the principles laid down In Ram Sumer's case (supra), would only



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apply if the civil Court has already adjudicated on the dispute regarding the property and given a finding. In our view Ram Sumer case (supra), is laying down that multiplicity of litigation should be avoided as it is not in the interest of the parties and public time would be wasted over meaningless litigation. On this principle it has been held that when possession is being examined by the civil Court and parties are in a position to approach the civil Court for adequate protection of the property during the pendency of the dispute, the parallel proceedings i.e., Section 145 proceedings should not continue,"

(Emphasis supplied).

Para 14. xxx.....In our view on the facts of the present case the ratio laid down in Ram Sumer's case (supra), fully applies. We clarify that we are not stating that in every case where a civil suit is filed, Section 145 proceedings would never lie. It is only in cases where civil suit is for possession or for declaration of title in respect of the same property and where reliefs regarding protection of the property concerned can be applied for and granted by the civil Court that proceedings under Section 145 should not be allowed to continue....xxx."

13. In conclusion, this Court is of the view that, when civil litigation is pending in connection with the administration and management of the Film & Television Producers' Guild of South India, the order passed by the 2nd respondent/ Executive Magistrate/Revenue Divisional Officer, Guindy by a



proceedings in Che.Mu.Aa.No.A1/2123/2023 is without jurisdiction and illegal and it is liable to be set aside and accordingly set aside.

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14. Petitioner claims that, the possession of the premises should be handed over to the petitioner, since, he was in control and managing the affairs of the Guild. It is the further submission of the learned counsel for the petitioner that, petitioner, who was running Film & Television Producers' Guild of South India. Petitioner Guild issues title Certificate as required by its members for the purpose of certification of films by the Central Board for Film Certification (CBC). It also issues Publicity Clearance Certificates to its members. If Publicity Clearance Certificate is not given, the members can not release the films and nobody, especially the labourers could get the salary.

15. This Submission of the learned counsel for the petitioner is opposed by the learned counsel for the 4th respondent on the ground that, the plaintiffs in C.S.No.512 of 2018 were prevented from functioning as elected members, secretary and treasurer of the Film & Television Producers' Guild of South India. It is pointed out that, they are granted order of status quo and injunction restraining the respondents in O.A.No.707 to 709 of 2018, from preventing the treasurer and secretary from discharging their duties. Therefore, the elected



members, Secretary and Treasurer should be permitted to participate in the affairs of the guild.

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16. Countering this submission, the learned counsel for the petitioner submitted that the against the order passed in O.A.No.708 of 2018 in C.S.No.512 of 2018, O.S.A.No.371 of 2018 was filed. Finding that, the real dispute between the parties was that, no election was held for four years, the Division Bench of this Court appointed Hon'ble Mr.Justice D.Murugesan, (Retired Chief Justice of Delhi High Court and the Hon'ble Mr.Justice P. Shanmugam (Retired Judge of this Court) as Observers for observing the entire election process and for ensuring that the entire election is conducted in a fair and free manner. Accordingly, O .S.A.No.371 of 2018 was disposed of. Subsequently, there was a change of observers by the orders passed by this Court. It is his submission that, the order passed in O.A.No.708 of 2018 got merged with O.S.No.371 of 2018 and therefore, fourth respondent cannot claim for participation in the Petitioner Guild.

17. In support of his submission, he relied on the judgement of this Court in Contempt Petition No.1133 of 2022 in **The Society of St. Joseph College Vs. J.Kumaragurubaran** dated 12.07.2022, relying on the judgment of the Hon'ble Supreme Court of India in the case of **Kunhayammed & Others Vs. State of**



Kerala & Another reported in (MANU/SC/0432/2000 : 2000 (6) SCC 359). It is relevant to extract the summing up of the findings of the Hon'ble Supreme Court of India in **Kunhayammed & Others Vs. State of Kerala & Another**

44. To sum up, our conclusions are:

(1) Where an appeal or revision is provided against an order passed by a court, tribunal or any other authority before superior forum and such superior forum modifies, reverses or affirms the decision put in issue before it, the decision by the subordinate forum merges in the decision by the superior forum and it is the latter which subsists, remains operative and is capable of enforcement in the eye of law.

18. There is no second opinion with regard to the principles propounded on the doctrine of merger by the Hon'ble Supreme Court of India as extracted above. However, in the case before hand, this Court finds that the Hon'ble Division Bench of this Court has not considered the challenge made to the grant of status quo and injunction in favour of the plaintiffs in C.S.No.512 of 2018 that they should not be prevented from functioning as Secretary and Treasurer. This order was not altered or modified or set- aside. When it was not altered or modified or set-aside, it cannot be stated that the order granting status quo and injunction got merged with the order appointing observers for smooth conduct of election.



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19. The learned counsel for the petitioner relied on the order passed by this Court in Crl.O.P.No.7881 of 2019 dated 25.03.2019 refusing to give police protection to rival parties and submitted that, fourth respondent and his supporters are not at all entering the Film & Television Producers' Guild of South India and that was the reason for rejecting the relief of police protection. Even now, they are not entering the premises and they have no right to claim participation in the administration and management of Film & Television Producers' Guild of South India.

20. On going through the order passed in Crl.O.P.No.7881 of 2019 dated 25.03.2019, this Court finds that this petition was dismissed giving liberty to the petitioner to work out his remedy before the Court below ie., where the Civil Proceedings were pending for appropriate relief, for the reason they have obtained order of injunction in their favour. Therefore, on the basis of this order, it cannot be concluded that the fourth respondent and others namely plaintiffs in C.S.No.512 of 2018 have no right of entry and the participation in the affairs of the petitioner Guild.



21. On 13.01.2020, this Court passed orders in O.S.A.NO.3171 of 2018 in C.M.P.Nos.16131 and 21315 of 2018 and C.M.P.No.19554 of 2018 that

“Treasurer shall provide his comments, if any to the Auditor. The Auditor, upon receipt of the comments from the Treasurer shall furnish a revised accounts for the past four years to the Guild”. This order shows that the role of the Treasurer is validated.

22. In a proceedings dated 19.4.2021, the then conveners Hon'ble Mr.Justice D.Murugesan and Hon'ble Mr.Justice Shanmugam, former Judges of this Court observed in para6(i) as follows:

As far as registered numbers 12068 (Thiru P.Duraisamy) No.6927 (Thiru Jambu), No.5316 (Thiru. Nandagopal Chetty), No.14315 (Thiru. Kamalanathan) No.10319 (Tmt. T.Vasanthi), No.9562 (Thiru.M.C.Sekar) are concerned we find them eligible to participate and vote in the General Body Meeting since the plea that they were removed subsequently cannot be accepted due to the interim orders passed in the Suit filed by them.

23. This findings shows that, fourth respondent and the above named persons are eligible to participate and vote in the General Body Meeting since the



plea that they were removed subsequently cannot be accepted due to interim orders passed in the suit filed by them.

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24. In the proceedings dated 09.08.2021 by the then Observers Hon'ble Mr.Justice D.Murugesan and Hon'ble Mr.Justice Shanmugam, former Judges of this Court, it was observed in para (6) that *“the office bearers elected in the election held on 10.06.2018 continue to be the office bearers by virtue of the Court orders including the petitioners and respondents”*. In para 13(c) it is noted that *the President is continuing by virute of the said election. The Secretaries are also permitted to continue by the Court orders of Status quo.*

25. The relevant extracts of the proceedings before the Observers show that the status quo and interim injunction granted in favour of the plaintiffs in C.S.No.512 of 2018 is sill in force. Therefore, petitioner's claim that he can alone run the affairs of the Guild cannot be accepted.

26. Accordingly, this Court directs the 2nd respondent in W.P.No.17496 of 2023 to unseal the premises and hand over the possession to the petitioner, who in co-operation with the Secretary and Treasurer has to run the affairs of the guild till the new office bearers are elected in the ensuing election.



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27. Accordingly, the Writ Petition in W.P.No.17496 of 2023 and the Criminal Original Petition in CrI.O.P.No.13504 of 2023 stand disposed of. Consequently, connected miscellaneous petitions are closed.

.06.2023

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To

1. The Secretary to Government,
Department of Revenue,
Government of Tamil Nadu,
Fort St. George, Chennai – 600 009.
2. The Sub Divisional Magistrate Cum
The Revenue Division Officer,
South Chennai Division, Guindy,
Chennai – 600 032.
3. The Inspector of Police,
Law & Order,
R-1, Mambalam Police Station,
T.Nagar, Chennai – 600 017.
4. The Public Prosecutor,
Madras High Court.

NOTE : Issue Order copy on 30.06.2023



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G.CHANDRASEKHARAN,J.

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Pre-Delivery order in
W.P.No.17496 of 2023
and W.M.P.No.16631 of 2023
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and Crl.M.P.No.8193 of 2023

.06.2023