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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.15399 of 2021

and

W.M.P(MD)Nos.12306, 12308 of 2021 & 10704 of 2022

Rathinam

... Petitioner

Vs.

1. The District Collector,
Karur District,
Karur.

2. The Sub Divisional Magistrate Cum
The Revenue Divisional Officer,
Kuzhithalai, Karur District.

3. The Special Tahsildar,
The Tamil Nadu Arasu Cable TV
Corporation Limited (TACTV),
Karur District.

4. K.Kamaraj

... Respondents

[4th respondent is impleaded as per Order of this Court, dated 08.09.2023]



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorari***, calling for the records pertaining to the impugned order of the 2nd respondent made in his proceedings in Na.Ka.A4/3049/2017 dated 14.07.2017 and quash the same.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.C.Baskaran,
Government Advocate, for R-1 & R-2

M/s.J.R.Annie Abinaya,
for Mr.David Sundar Singh, for R-3

ORDER

This writ petition is filed for ***Writ of Certiorari***, to quash the impugned order, dated 14.07.2017.

2. Heard Mr.M.Jegadeesh Pandian, the Learned counsel appearing for the Petitioner, Mr.C.Baskaran, the Learned Government Advocate appearing for Respondents 1 & 2, M/s.J.R.Annie Abinaya, for Mr.David Sundar Singh, the Learned counsel appearing for the 3rd respondent and perused the material documents available on record.



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3. The petitioner has entered into rental agreement with the 4th respondent for the property situated in Door No.1/222, M.K.Puliyur, Thirukkampuliyur, Krishnarayapuram, Karur District, for running Cable TV Unit for a period of five years.

4. At the time of agreement, the petitioner had shown a document of License No. L.C.O.No.48189. Thereafter, through proceedings, dated 14.07.2017, the 2nd respondent has sealed the Cable TV unit by invoking provisions of Cable Television Networks (Regulation) Act, 1995.

5. The petitioner had received a photo copy of the said order. After sealing of the property, the said Kamaraj has refused to pay monthly rent as per agreement and directed the petitioner to wait upto the end of agreement period and the petitioner has waited until 2019. Now, the petitioner has not received rent from the said Kamaraj nor seal was removed / revoked by the 2nd respondent. Hence, the petitioner has submitted a representation, dated 10.11.2020 and approached the 1st respondent to remove the seal from the property. The 1st respondent has issued a communication, dated 24.11.2020 to the 2nd respondent



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with direction to consider the petitioner's representation and address the grievance. But, till this date, the respondents have not passed any order. Hence, the writ petitioner is before this Court.

6. The learned counsel appearing for the petitioner submitted that under Section 11 of the Cable Television Networks (Regulation) Act. 1995, the respondents are empowered to recover the amount but they cannot seal the premises.

7. The petitioner had relied on the Judgement passed by the Hon'ble Division Bench of this Court rendered in ***W.P(MD)No.17940 of 2015, vide order, dated 06.01.2016, reported in 2016 0 Supreme Madras 8***. The relevant portion is extracted hereunder:

15. A careful look at Section 11 would show that it is a complete code in itself. It clearly defines violations for which an order of seizure of the equipment could be passed. There is no omnibus provision under Section 11 to enable the authorized officer to seize the equipment for any ground other than what is mentioned in Section 11.



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16. Coming to the case on hand, it is seen that the order of the District Collector states three reasons. The first reason is that the petitioner is guilty of violation of Section 3. But the said ground is no more available to the respondents in view of the common order passed by us in a batch of writ petitions and writ appeal in W.A. (MD)No.1340 of 2015 and W.P(MD)No.1039 of 2015, etc., on 05.01.2016.

17. Hence the first reason on account of which the District Collector passed the order dated 28.09.2015 goes.

18. The second reason stated by the District Collector in his order dated 28.09.2015 is that the petitioner has not obtained a licence as a Multi-System Operator. But unfortunately that is not one of the grounds traceable to Section 11.

19. Similarly the third reason that the petitioner is in arrears of amount to the Tamil Nadu Arasu Cable Television Corporation Limited, is also not a ground traceable to Section 11.

20. Therefore we find that the impugned order dated 28.09.2015 passed by the District Collector is wholly without jurisdiction and completely arbitrary. As a matter of fact, we have found in our order dated 05.01.2016, passed in W.A.(MD)No.1340 of 2015 and batch, that the Post Master himself had acted in an arbitrary and malicious manner. Therefore we are of the view that the order dated 28.09.2015 of the District Collector should be set aside. Hence W.P(MD)No.17940 of 2015 is allowed and the order dated 28.09.2015 passed by the District Collector is set aside.



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21. As a consequence, the order of the second respondent, in W.P(MD)No.19191 of 2015, dated 08.10.2015, is also set aside. The District Collector and the Special Tahsildar cum Deputy Manager, Tamil Nadu Arasu Cable Television Corporation Limited are directed to forthwith remove the seal from the premises of the petitioner and hand over the seized equipment in the same condition in which they were seized. The District Administration will be held responsible for any damage that had been caused to the equipment and we give liberty to the petitioner to work out his remedies if any damage is found”.

8. The Hon'ble Division Bench had directed the respondents to remove the seal and liberty was granted to the respondents to recover the amount from the license holder.

9. Accordingly, this Court following the said Judgement passed by the Hon'ble Division Bench of this Court, the impugned order, dated 14.07.2017 is hereby quashed. The respondents are directed to remove the seal forthwith and the respondents are at liberty to take action against the license holder.



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10. With these observations, this Writ Petition is allowed. There shall be no order as to costs. Accordingly, ***W.M.P(MD)No.10704 of 2022 is allowed and W.M.P(MD)Nos.12306 & 12308 of 2021 are closed.***

08.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

1. The District Collector,
Karur District,
Karur.
2. The Sub Divisional Magistrate Cum
The Revenue Divisional Officer,
Kuzhithalai, Karur District.
3. The Special Tahsildar,
The Tamil Nadu Arasu Cable TV
Corporation Limited (TACTV),
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S.SRIMATHY, J.

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