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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 9th January, 2023
+ **W.P.(C) 205/2023 & CM APPLs. 701/2023, 702/2023, 859/2023**
M/S ISHERDAS SAHNI AND BROS Petitioner
Through: Mr. Jeevesh Nagrath, Mr. Arjun Gaur
& Ms. Monika Prakash, Advocates
(M-9810710058)

versus

DELHI POLICE & ANR. Respondents
Through: Mr. Sameer Vashisht, ASC with Ms.
Sanjana Nangia, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner - M/s. Isherdas Sahni and Bros., which is the owner of a cinema hall known as Odeon Cinema, located at Odeon Building, Plot No.23, Radial Road 5, D-Block, Connaught Place, New Delhi.
3. The case of the Petitioner is that the Petitioner executed a License Agreement dated 7th April, 2017, with Cinema Ventures Pvt. Ltd. (hereinafter, "CVPL") for running and operating the Odeon theatre. The said License Agreement was duly recognized by the Respondent's licensing authority, and a license dated 12th August, 2009 was granted for a period till 11th August, 2019. The said communication dated 12th August, 2009 reads as under:

"No. CNML/Addl.CPLic/2009/20

Dated: 12.08.2009

*FORM- 'B'**(See Rule -6)**Form for License under Section 10 of the Cinematograph Act, 1952.**The place known as Odeon Cinema (Audi-II), situated at D-Block, Connaught Place, New Delhi, in the National Capital Territory of Delhi is hereby licensed under section 10 of the Cinematograph Act, 1952 for cinematograph exhibitions.**This license has been granted to Shri Shyam Sahni [Mohit Sahni], Partner, M/s Isherdas Sahni & Bros., Head Office- Odeon Cinema, D-Block, Connaught Place, New Delhi-110001, and resident of 68, Friends Colony West, New Delhi-110065 in respect of aforesaid place and shall remain in force until the 11.08.2019, provided that the said licensee or any person to whom, with the consent of the Licensing Authority, the license is transferred continues to own or manage the cinematograph used in the said Odeon Cinema situated at D-Block, Connaught Place, New Delhi.**The license shall be subject to the provisions of the Cinematograph Act, 1952 rules made thereunder, and to the terms & conditions set forth in the annexure to this license.**(Varsha Sharma) ACTP/Cinema
For Addl. Commissioner of Police
Licensing: Delhi.**The name of Licensee is changed from Sh. Shyam Sahni to Shri Mohit Sahni vide orders of Jt.Co/Lic. Dated 15/1/16."*

4. Thereafter, disputes arose between the Petitioner and CVPL, which is

the subject matter of a suit being **CS(COMM) 350/2022** titled “**M/s. Cinema Ventures Pvt. Ltd. v. M/s. Isherdas Sahni & Bros.**”. The said suit was filed by CVPL against the Petitioner seeking specific performance of the License Agreement dated 7th April, 2017. The suit is stated to be pending before this Court.

5. In the meantime, a Lease Deed dated 31st March, 2022 has been executed between the Petitioner and one M/s. Inox Leisure Limited, by which the said Lessee has been given the permission to operate the Petitioner’s multiplex cinema. The Petitioner sought permission to rename the theatre as ‘Odeon Inox’ which was granted by the District Magistrate on 24th June, 2022. However, the permission from the Respondent – Delhi Police was still not received. Finally, vide order dated 26th August, 2022, the licensing unit of the Delhi Police rejected the permission to the Petitioner to run the theatre under the name ‘Odeon Inox’, on the ground that a suit being **CS(COMM) 350/2022** was pending in respect of this very multiplex theatre.

6. The Petitioner, then, sought a clarification from the Court before which the said suit being **CS(COMM) 350/2022** was pending. Vide order dated 26th September, 2022 in the said suit, the Id. Single Judge of this Court passed an order, to the following effect:

“I.A. 15835/2022 (of the defendant u/O-XIII-A r/w S-151 CPC)

1. Issue notice.
2. Notice is accepted by the counsel appearing on behalf of the plaintiff.
3. Reply be filed within four weeks.
4. Rejoinder thereto, if any, be filed before the next date of hearing.

5. List on 6th February, 2023.

6. **It is clarified that the pendency of the present suit shall not come in the way of licensing authorities deciding the endorsement request made on behalf of the defendants in accordance with law.**

7. Upon the above clarification being issued by the Court, the Petitioner made a representation to the Delhi Police for reconsideration, which has been rejected. Hence, the Petitioner has filed the present petition seeking the following reliefs:

“In view of the foregoing facts and circumstances, it is most respectfully prayed that this Hon’ble Court may most graciously be pleased to:

*(a) Issue a Writ of Certiorari and/or an appropriate Writ, order or direction in the nature of Certiorari in favour of the Petitioner and against the Respondents thereby quashing / setting aside the Impugned Orders dated 26.08.2022 (Annexure P-25) and 21.11.2022 (Annexure P-29) issued by Respondent no. 2 to the extent that Respondent no. 2 has decided to keep pending the request of the Petitioner for name change/ endorsing the Renewed Licences dated 11.04.2019 (i.e. the renewal dated 11.04.2019 of the cinematograph licence nos. CNML/Addl. CPLic/2009/19 and CNML/Addl. CPLic/2009/20 both dated 12.08.2009) for operation of cinema in favour of the Lessee of the Petitioner, Inox Limited with the name “**Odeon Inox**”;*

(b) Issue a Writ of Mandamus and/or an appropriate writ, order or direction in the nature of Mandamus in favour of the Petitioner and against the Respondents, thereby commanding and directing Respondent no. 2 to endorse (permit name change) the Renewed Licences dated 11.04.2019 (i.e. the renewal dated 11.04.2019 of the cinematograph licence nos. CNML/Addl. CPLic/2009/19 and CNML/Addl. CPLic/2009/20 both dated 12.08.2009) for operation of the two cinemas of

the Petitioner at Odeon Building, Plot no. 23, Radial Road 5, D-Block, Connaught Place, New Delhi-110001 as “Odeon Inox” by the Lessee of the Petitioner, Inox Limited as requested by the Petitioner by its Letters dated 24.03.2022, 28.09.2022, 14.10.2022 and 09.11.2022;

(c) Grant costs of the present petition in favour of the Petitioner and against the Respondents; and

(d) Pass any other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in favour of the Petitioner and against the Respondents.”

8. Ld. Counsel for the Petitioner submits that there is complete non-application of mind by the Respondents - Delhi Police, inasmuch as the name ‘Odeon Carnival’ was already recognized, and the disputes between CVPL and the Petitioner cannot lead to a situation where the multiplex theatre is not permitted to run. The Lease Deed dated 31st March, 2022 is duly registered with the Sub-Registrar, and there is no serious objection raised by the Respondents, except the pendency of the present suit. Once the clarification was issued by this Court vide order dated 26th September, 2022 in **CS(COMM) 350/2022**, the Delhi Police ought to have given permission to the Petitioner to run the multiplex theatre in the name of ‘Odeon Inox’.

9. Mr. Vashisht, Id. ASC for GNCTD appearing for the Respondents submits, under instructions, that the representation dated 9th November, 2022 on behalf of the Petitioner has been rejected by the Respondent due to the pendency of the suit being **CS(COMM) 350/2022**.

10. This Court has considered the matter and perused the record. It is not in dispute that the earlier License Agreement dated 7th April, 2017 with CVPL was legally recognized, and the Petitioner was permitted to use the

name 'Odeon Carnival' in respect of the multiplex theatre. The second Lease Deed dated 31st March, 2022 which has been executed with M/s. Inox Leisure Limited is also on record. Further, the Id. Single Judge of this Court, before whom the suit being **CS(COMM) 350/2022** is pending, has also clarified vide order dated 26th September, 2022 that the said suit shall not come in the way of the Petitioner's request being considered by the licensing authorities. Thus, in the opinion of this Court, the dispute between the Petitioner and CVPL ought not to result in a stalemate for the running of the cinema hall itself.

11. In this view of the matter, there is clearly no impediment in the Petitioner's prayers being allowed and the change of name to 'Odeon Inox' being permitted. Accordingly, the prayer of the Petitioner for the operation of the Petitioner's multiplex cinema under the name 'Odeon Inox' is permitted by this Court.

12. Let the licensing authority of the Respondents - Delhi Police issue the permission to the Petitioner, in accordance with law, within one week. It is made clear that the permission being granted by this Court is subject to any orders that may be passed in the pending suit being **CS(COMM) 350/2022**.

13. The present petition, along with all pending applications, is disposed of, in the above terms.

PRATHIBA M. SINGH
JUDGE

JANUARY 9, 2023

Rahul/AD