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WP.No.30420 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.30420 of 2012 &

MP.Nos.1 and 2 of 2012

1. S.Rajammal
2. Soundara Rajalakshmi
3. Somasundaram
4. Sankaranarayan
5. S.Shanmugam
6. Shanmugasundari
7. Saraswathy
8. Vijayalakshmi
9. Soundara Kalyani
10. Nellainayagam
11. P.Meenakshmi
12. S.Arumugam

.. Petitioners

Versus

1. The Principal Secretary,
Government of Tamilnadu,
Home [Cinema] Department,
Secretariat, Fort St. George,
Madras – 600 009.
2. The Principal Secretary cum Additional Commissioner,
[Cinema and Irrigation],
Land Administration Department,
Chepauk, Chennai – 600 005.
3. The District Collector,
Office of District Collector,



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Madurai District, Madurai – 625 020.

4. S.Karunakaran

5. Meena

6. Subashchandra Bose

7. S.Balasundaram

8. S.Sivasankaran

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent herein in his proceedings G.O. [2D] No.341 Home [Cinema] Department dated 12.10.2012 and quash the same and further direct the respondents 1 to 3 herein to grant 'C' Form licence to the 12th petitioner S.Arumugam to run the Balan Theatre situated at Solavandan Nagar, Vadipatti Taluk, Madurai District.

For Petitioner : Mr.S.Parthasarathy, Senior Counsel
for Mr.S.Kasirajn

For Respondents : Mr.LSM Hasan Fizal
Additional Government Pleader – R1 to R3

Mr.T.M.Pappaiah – R4 to R8

ORDER

This writ petition is filed to quash proceedings G.O. [2D] No.341 Home [Cinema] Department dated 12.10.2012 and quash the same and further direct



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the respondents 1 to 3 herein to grant 'C' Form licence to the 12th petitioner S.Arumugam to run the Balan Theatre situated at Solavandan Nagar, Vadipatti Taluk, Madurai District.

2. The case of the petitioners is that the theatre 'Balan Talkies' was owned by the father of the 12th petitioner and he had been paying taxes and obtained proper certificate as per the Tamilnadu Cinema [Regulation] Rules, 1957. His father died on 31.10.1993 leaving behind his 7 sons and one daughter. After the death of their father, the legal heirs and the descendants of the family executed a Power of Attorney in favour of the 12th petitioner. On the basis of the General Power of Attorney, the Form C Licence of the theatre was changed in the name of the 12th petitioner. While so one of the legal heirs, namely S.Kandasamy filed a suit in O.S.No.62 of 2005 praying for partition and separate possession and a preliminary decree has also been passed in the said suit and the suit is pending before the first Additional Sub Court, Madurai in i.A.No.699 of 2011 in O.S.No.619 of 2011 for passing of final decree. When the petitioner applied for renewal of C Form licence with the third respondent on 11.08.2011 and as the same has not been considered, the 12th petitioner filed a Writ Petition in W.P.[MD] No.10195 of 2011 before the Madurai Bench of Madras High Court and the Writ Petition was disposed of



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with a direction to the third respondent to consider the representation of the

12th petitioner for renewal of C Form licence within four weeks. As objections were raised during the enquiry of the third respondent, he orally advised the parties to approach the Civil Court for permanent solution. Thereafter, as the temporary licence was granted in favour of the 12th petitioner, the fourth respondent, who is the brother of the 12th petitioner filed a Writ Petition in W.P.No.15161 of 2011 challenging the temporary licence granted to the 12th petitioner. Subsequently, the power given to the 12th petitioner was cancelled on 19.12.2011 without issuing any statutory notice to the 12th petitioner. The fourth respondent has also filed a suit in O.S.No.860 of 2011 on the file of the Subordinate Judge, Madurai for permanent injunction against the statutory authority from granting or renewing the Form C Licence in favour of 12th petitioner and no interim injunction was granted in the said suit. The fourth respondent also filed a suit for partition in O.S.No.619 of 2011 before the I Additional Sub Court, Madurai and the same is pending. As the fourth respondent has objected the temporary licence issued to the 12th petitioner, the first respondent by the impugned Order cancelled temporary licence and the theatre has been closed. Hence, the present Writ Petition.

3. The learned Senior Counsel appearing for the petitioner submitted



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that out of the shares of the 8 share holders, the shares of the 7 share holders have been purchased by the 12th petitioner and Power of attorney has also executed in favour of the 12th petitioner and he is in physical possession of the property and the licence can be renewed subject to the result of the civil suits filed for partition by one of the legal heirs of the father of the 12th petitioner and the fourth respondent. He further submitted that mere pendency of the suits will not deprive the right to enjoyment of the property by the 12th petitioner.

4. The learned Senior Counsel appearing for the respondents 4 to 8 submitted that their clients want to enjoy the property and they are not inclined to alienate the property. He further submitted that as per Rule 123 of Tamilnadu Cinema [Regulation] Rules 1957, when any one of the legal heir has objected for transfer of licence, the 12th petitioner is not entitled for transfer or renewal of licence in his favour. Hence, prayed for dismissal of this Writ Petition.

5. Counter has been filed by the first respondent stating that as per Rule 123 of Tamil Nadu Cinemas [Regulation] Rules, 1957, if the holder of the licence is dead, any one of the legal heirs of the licensee may, within a period



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of six months from the date of death of the holder of licence, may make an application to the licensing authority for transfer of the licence in his favour giving the particulars required as stipulated under the Rules along with the consent of all other legal heirs in writing for the transfer of the licence in his name and the above rule does not state that the consent of majority of the legal heirs is sufficient to transfer the licence. Hence, prayed for dismissal of the Writ Petition.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. It is not in dispute that the 12th petitioner has sought for licence, which stood in the name of their father. It is also not disputed that majority of the legal heirs of the father of the petitioner have given their no objection for transferring the licence in the name of the petitioner, however, objection, in the form of respondents 4 to 8 has arisen and in this regard, the objection has been placed before the official respondents.

8. In this regard, the respondents 4 to 8 rely on Rule 123 of the Tamilnadu Cinema [Regulation] Rules, 1957, which mandates that for transfer



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of licence, the concurrence of all the legal heirs of the original licensee is required. Rule 123 of the Tamilnadu Cinema [Regulation] Rules, for better appreciation is extracted hereunder :

“123. Every application for transfer or assignment of a licence shall be accompanied by-

[a] a treasury receipt for the payment of fees at the rates prescribed in rule 122;

[b] the licence in Form 'C'; and

[c] a copy of the instrument, if any, proposed to be executed by the applicants in respect of the transfer or assignment of the licence, as the case may be.

Explanation. - In the case of an application made by any one of the legal heirs of the deceased licensee, the applicant shall send the consent statement obtained from all the other legal heirs for the transfer or assignment of the licence, as the case may be, in his/her favour.”

However, in the present case, the respondents 4 to 8 have objected to the transfer of license in favour of the petitioner, which is in consonance to 123 of the Rules, and applying the said Rules, the first respondent has rightly rejected the application of the petitioner, which is as per the Rules and therefore, cannot be said to be erroneous.



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9. In the aforesaid circumstances, no interference is warranted with the impugned Order and the present Writ petition is dismissed as devoid of merits. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

24.10.2024

vrc

Index:Yes/No

Internet:Yes/No

Neutral Citation:Yes/No

To

- 1.The Principal Secretary,
Government of Tamilnadu,
Home [Cinema] Department,
Secretariat, Fort St. George,
Madras – 600 009.
2. The Principal Secretary cum Additional Commissioner,
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M.DHANDAPANI, J.

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