(1974) 07 MAD CK 0047

In the Madras High Court

R. Thirumoorthy APPELLANT

Vs

The Collector and Others RESPONDENT

Date of Decision : 10-07-1974

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1978) 87 LW 759 : (1974) 2 MLJ 429

Hon'ble Judges : M. M. Ismail, J

Bench : Division Bench

Judgement

M. M. Ismail, J.—The third respondent herein applied for the grant of a ''no objection certificate'' on 11th June, 1973 and the same was granted by the Collecter of Coimbatore by order dated 1st September, 1973. Meanwhile, the petitioner sent an objection petition to the Collector which was received by the Collector on 2(sic)th July, 1973. From the order of the Board of Revenue in this case it is clear that after receipt of the objection petition, the same was not traceable in the office of the Collector and consequently the Collector proceeded to grant the ''no-objection certificate'' to the third respondent as if there were no objections. On 22nd March, 1974, the petitioner preferred an appeal to the Board of Reveune, and the Board of Revenue, by their order dated 18th April, 1974, rejected the appeal as time-barred. It is to quash this order of the Board of Revenue this writ petition under Article 226 of the Constitution of India has been filed.

2. The Board of Revenue took the view that since the petitioner''s objection-petition was not in the file of the Collector, the Collector was not bound to send a copy of his order granting the ''no objection certificate'' to the third respondent, to the pettioner herein, and consequently the period of limitation of thirty days prescribed by rule 45 of the Tamil Nadu Cinema Regulation Rules should be calculated from the date of the order itself and therefore the appeal filed on 22nd March, 1974, i.e., more than six and a half months after the grant of the ''no objection certificate, was barred by limitation.

3. In my opinion, though the reasoning of the Board of Revenue is erroneous, their conclusion that the appeal was barred by limitation is correct. When the objection petition was actually received by the Collector, if the same was subsequently not traceable in his office, a person like the petitioner, who had sent the objections, ought not to be penalised for any inefficiency or slackness in the office of the Collector. Consequently it could not be said that because the petitioner''s objection-petition was not in the file of the Collector the petitioner was not entitled to a copy of the order of the Collector.

4. However, the real question for consideration is whether the appeal filed by the petitioner before the Board of Revenue was barred by limitation, or not. As I pointed out already, the appeal was filed on 22nd March, 1974. Rule 45 of the Tamil Nadu Cinema Regulation Rules provides for a period of thirty days from the date of receipt of the copy of the order for filing an appeal. When the copy of the order was not received by the petitioner, the period of limitation should be calculated from the date when he came to ''know'' of the order of the Collector granting ''no objection certificate'' to the third respondent on the basis of the principles laid down by the Supreme Court in Raja Harish Chandra Raj Singh Vs. The Deputy Land Acquisition Officer and Another, . In this case on 31st January, 1974, the petitioner has filed an objection-petition to the Collector when the third respondent had applied for the grant of a ''C-form licence''. In that objection-petition, the petitioner stated as follows:

It is respectfully submitted that I had already submitted a valid objection even at the time of issue of ''no-objection certificate'' for locating touring cinema on the above site, but due to the inspecting officers not properly submitting their remarks regarding the surrounding existences around the space of the touring cinema, my objection was not upheld, and the no-objection certificate has now been granted, and application for C-form licence is said to have been presented. I have valid objections against the grant of the C-form licence under Rule 103(3) of the Tamil Nadu Cinema Regulation Rules which runs as under....

It is thus clear that on 31st January, 1974 itself the petitioner was aware of the grant of the ''no objection certificate'' to the third respondent and thereafter he objected to the grant of the ''C-form licence''. Consequently, the period of limitation provided for under Rule 45 must be calculated at least from this date. If so, the appeal tiled on 22nd March, 1974 would clearly be time-barred.

5. The learned Counsel for the petitioner, however, wanted to contend that the mere knowledge on the part of the petitioner of the fact that the Collector issued the ''no-objection certificate'' to the third respondent was not enough and that the petitioner should have known the contents of the order. In my opinion, having regard to the circumstances of this case, such a contention is untenable. The remedy that was available to the petitioner was by way of appeal. Nothing prevented him to file an appeal to the Board of Revenue putting forward the very same objections which he filed before the Collector, to challenge the order of the Co lector granting the ''no objection certificate''; and he not having done so, it is

not now open to him to contend that though he knew of the grant of the ''no objection certificate'', he did not know the contents of the order of the Collector, and, therefore, he could not prefer the appeal in time. From his objections dated 31st January, 1974 it is clear that the petitioner knew that his objections were overruled and ''no-objection certificate'' was granted to the third respondent. Thus, the petitioner, had knowledge of the essential contents of the order of the Collector, within the principles laid down by the Supreme Court in State of Punjab Vs. Mst. Qaisar Jehan Begum and Another, . Consequently, for different reasons, the conclusion of the Board of Revenue that the appeal of the petitioner preferred before them on 22nd March, 1974 was barred by limitation is correct.

6. The writ petition is: dismissed. No. costs.