
(1972) 08 MAD CK 0021
In the Madras High Court
Case No : Writ Appeal No. 237 of 1972

V.C. Balasundaram

APPELLANT

Vs

V.R. Gopalakrishnan and Others

RESPONDENT

Date of Decision : 23-08-1972

Acts Referred:

Citation : AIR 1973 Mad 159 : (1972) ILR (Mad) 343

Hon'ble Judges : Palaniswamy, J;Ismail, J

Bench : Division Bench

Judgement

Ismail, J.—This petitioner is W. P. No. 1947 of 1972 on the file of this court, who lost before Ramaprasada Rao, J., is the appellant herein.

The appellant and the first respondent herein were lessees of a particular premises taken on lease in December, 1969. They applied for a license in

C form under the Tamil Nadu Cinemas (Regulation) Act, 1955 and such a license was issued in that joint names of the appellant and the first

respondent and it was valid till 25-8-1972. According to the appellant, there was an inter se arrangement between the appellant and the first

respondent under which the first respondent was to run the theatre for a period of two years and enjoy the income therefrom and thereafter the

appellant herein was to run the theatre and enjoy the income therefrom for a period of two years. The further case of the appellant was that the

enjoyment of the first respondent came to an end on 6-12-1971, and thereafter he took over management of the theatre; that when the license was

to expire on 28-5-1972, he applied for renewal of the same and that his application for renewal was objected to by the first respondent herein.

The District Collector of Coimbatore at the first instance rejected the application

for renewal made by the appellant herein and the Board of

Revenue on appeal confirmed that rejection. It is to quash those orders that the writ petition was filed and the learned Judge (Ramaprasada Rao,

J.) dismissed the same on 11-8-1972. Hence the present appeal.

2. The short question for consideration is, when the original license was granted in the names of the appellant and the first respondent jointly, is it

open to the appellant alone to apply for a renewal of the same in his own name, when the first respondent did not join the application for renewal

and as a matter of fact opposed the grant of renewal to the appellant. The learned Judge has held that there cannot be a renewal of a license under

such circumstances and therefore respondents 2 and 3 were right in rejecting the application for renewal.

3. Mr. R. M. Seshadri, learned counsel for the appellant, contended before us that there are decisions of this court holding that even a stranger

under certain circumstances can apply for renewal of a license granted in the name of another. For this purpose, he relied on the decision of

Veeraswami, J., as he then was, in W. P. 187 of 1962, that of Srinivasan, J. in W. P. 294 of 1962 and that of Rajagopalan, J. in W. P. 342 of

1955. None of these decisions dealt with a case like the present one, namely, where the original license was granted in the names of more than one

person and the application for renewal was made by one of them in his own name and that being objected to by the other or others of the original

licensees. Therefore, we are unable to derive any assistance in support of the contention of the appellant from the decisions referred to above. Mr.

R. M. Seshadri then referred to the decision of the Supreme Court in N.S. Shethna Vs. Vinubhai Harilal Panchal, and contended that the renewal

of a license is not a continuation of the original license, but it is only a fresh license and therefore the application made by the appellant herein was

competent. We are of the opinion that that decision does not support the case of the appellant herein. In that case the Supreme Court after

elaborately referring to the rules in this behalf came to the conclusion that the rules themselves did not made any provision for power to renew and

there was nothing to prevent the licensing authority imposing any fresh conditions at the time the renewal was granted and therefore the renewal of

a license was merely a grant of fresh license. As far as the Tamil Nadu Cinemas

(Regulation) Rules are concerned, there are specific provisions

regarding renewal made in Rules 92 to 97. There is an elaborate procedure in this behalf and even these rules contemplate grant of a temporary

permit during the interval between the application for renewal of the license and the actual grant of the renewal and as a matter of fact, a perusal of

these rules will give an indication that the renewal of a license is merely a continuation of the original license and not a fresh grant at all.

Consequently the decision of the Supreme Court relied on by the learned counsel for the appellant does not support his case. We are clearly of the

opinion that the very word "renewal" is opposed to the person applying for renewal being different from the person in whose name the license was

originally issued. If, as in the present case, the license was originally issued in the names of the appellant and the first respondent jointly, a renewal

of that license could be applied for and obtained only in the names of those two persons and on the application of those two persons. So long as

only one of them applies for the renewal of the license in his own name, when the original license stands in the names of both, such an application

cannot be considered to be an application for renewal of the license and on the basis of such an application, no renewal of license can be granted.

If the appellant had requested the authorities to treat his application as an application for a fresh license on the ground that he is in lawful possession

of the premises both by virtue of the original lease from the owner of the building, the position might be different. In so far as the appellant

purported to apply only for the renewal of the license in his own name, the orders complained of cannot be challenged. In this view, no interference

is called for with the order of the learned Judge and the writ appeal fails and is dismissed.

4. We may make it clear that the dismissal of the writ appeal will not in any way prevent the appellant herein from applying for a fresh license in his

own name if he is entitled or eligible to it under the provisions of the Act and the Rules.

5. Petition dismissed.