

(1972) 08 MAD CK 0043
In the Madras High Court

V.G. Balasundaram

APPELLANT

Vs

V.B. Gopalakrishnan and Others

RESPONDENT

Date of Decision : 23-08-1972

Acts Referred:

Citation : (1973) 86 LW 453 : (1972) 2 MLJ 566

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

Bench : Division Bench

Judgement

M.M. Ismail, J.—The petitioner in W.P. No. 1917 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 licence "C" form under the Tamil Nadu Cinemas (Regulation) Act, 1955 and such a licence was issued in the joint names of the appellant and the first respondent and it was valid till 25th August, 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 end on 6th December, 1971, and thereafter he took over management of the theatre; that when the licence was to expire on 28th May, 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 14th August, 1972. Hence the present appeal.

2. The short question for consideration is, when the original licence 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 licence 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 licence granted in the name of another. For this purpose, he relied on the decision of Veeraswami, J. as he then was, in W.P. No. 187 of 1962, that of Srinivasan, J., in W.P. No. 294 of 1962 and that of Rajagopalan, J., in W.P. No. 342 of 1955. None of these decisions dealt with a case like the present one, namely, where the original licence 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 licence is not a continuation of the original licence, but it is only a fresh licence 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 make 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 licence was merely a grant of fresh licence. As far as the Tamil Nadu Cinema (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 licence 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 licence is merely a continuation of the original licence 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 licence was originally issued. If, as in the present case, the licence was originally issued in the names of the appellant and the first respondent jointly, a renewal of that licence 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 licence in his own name, when the original licence stands in the names of both, such an application cannot be considered to be an application for renewal of the licence and on the basis of such an application, no renewal of licence can be granted. If

the appellant had requested the authorities to treat his application as an application for a fresh licence on the ground that he is in lawful possession of the premises both by virtue of inter se arrangement between the appellant and the first respondent and 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 licence 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 licence in his own name if he is entitled or eligible to it under the provisions of the Act and the rules.