



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION NO. 25939 OF 2023 (C)

BETWEEN:

SRI JERALD CUTINHO
S/O LATE SYLVESTER CUTINHO
AGED ABOUT 51 YEARS
RESIDIN NO. 2-250
GREEN GARDEN, MIYAR VILLAGE
KARKALA TALUK
UDUPI DISTRICT-574 107.

...PETITIONER

(BY SRI. RAJESH A.,ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER &
DISTRICT MAGISTRATE'S OFFICE
DAKSHINA KANNADA DISTRICT
MANGALORE-575 001.
2. MRS. AMARSHREE AMARNATH SHETTY
D/O LATE AMARNATH SHETTY
AGED ABOUT 43 YEARS
RESIDIN AT NO.3-237
GANDHINAGAR, MOODABIDRI TALUK
DAKSHINA KANNADA DISTRICT
MANGALORE-574 227.

...RESPONDENTS

(BY SRI. B T KOLLER., AGA FOR R1;
SRI. VENUGOPAL M S, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
DIRECTING THE R1 TO QUASH / RECALL THE ORDER DATED



07/11/2023 NO.E.N.T.CR5/2023/218510/C4 AND ORDER
DATED 04/08/2023 NO.ADS.E.N.T.C.R.5/2023/218510/C4
(ANNEXURE-A AND B) (ANNEXURE-A).

THIS PETITION, COMING ON FOR ORDER, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL ORDER

The present writ petition is preferred against the
Deputy Commissioner's Order dated 04.08.2023
(Annexure-B), canceling the Exhibiting licence of a
Amarashree Theatre and directing closure and sealing of
the premises and consequential order dated 07.11.2023
(Annexure-A), directing handing over of the theatre to the
owner and opening the premises for repairs.

Brief facts:

2. The petitioner claims to be owner and
management of the Amarashree Theatre under
agreements entered in the years 2010 and 2016 and
contends that the licence had been renewed from time to
time. It is a case of the petitioner that necessary No



Objection Certificates (NOC) were obtained and renewal fees were paid. Subsequently, the dispute arose between the petitioner and the owner (respondent No.2) leading to institution of a civil suit in O.S.No.94/2023, seeking injunction against dispossession. During the pendency of the dispute, the Deputy Commissioner passed an order dated 04.08.2023 (Annexure-B), canceling the licence and sealing of the theatre and consequential Order (Annexure-A) dated 07.11.2023 direction to hand over the premises to owner and permit opening for repairs.

3. Learned counsel for the petitioner submits that the impugned orders are arbitrary and violative of principles of natural justice, as no opportunity of hearing was granted. It is submitted that the petitioner had obtained all the statutory NOCs and complied with the Karnataka Cinema (Regulations) Rules, 2014 ('Rules' for short) and that the petitioner has been in lawful possession and management of the theatre and the authorities could not have interfered with the possession,



especially when a civil suit is pending. It is submitted that the earlier license (Annexure-E) establishes compliance and entitlement.

4. *Per contra*, learned counsel for the respondents submits that the petitioner is not a licensee or a tenant, but only a manager and has no independent right over the property. The management agreement had expired and the petitioner has no subsisting right. It is submitted that the petitioner has relied on the forged and fabricated documents and criminal cases have been registered. It is submitted that the theatre was in unsafe and dilapidated condition posing risk to public safety and the Deputy Commissioner acted within the statutory powers under the Act and Rules and the petitioner suppressing the material facts including rejection of interim relief in the civil proceedings.



5. This Court has carefully considered the rival submissions and perused the material on record. The point that arises for consideration is:

"Whether the Deputy Commissioner acted within the statutory powers in canceling licence and directing handing over of the premises?"

6. The impugned proceedings are initiated against the licence holder under the Provisions of Act and Rules and the petitioner, not being the licence holder, but only claiming rights under a private arrangement, cannot insist upon issuance of notice. The licence stands in the name of the owner (respondent No.2). It is a settled proposition of law that a writ petition is maintainable only at the instance of a person aggrieved having a legal right and a writ can be issued only for enforcement of a legal right. The petitioner is not a licence holder, lacks *locus standi* to challenge the cancellation of licence.

7. The prime contention of the petitioner is that the impugned orders are passed without affording an



opportunity of hearing. The proceedings relate to cancellation of licence, which is a statutory right vested in the licence holder. The petitioner is neither a licence holder nor a recognized statutory stakeholder under the Act. The principles of natural justice apply where the person's legal rights are affected and fairness can only be to the persons whose rights are directly affected. The principles of natural justice are not an unruly horse and must be applied contextually. In the present case, the statutory action is against the licence holder. The petitioner's claim is only derivative and disputed, and non-issuance of notice to the petitioner does not vitiate the proceedings.

8. The dispute between the petitioner and respondent No.2 relates to possession, validity of agreements and right to continue in management. These are clearly civil disputes already pending in O.S.No.94/2023 and the writ jurisdiction could not have been invoked in purely contractual matters. The



appropriate forum where disputed questions of fact arise and rights follow from contracts, remedy is before the Civil Court and not under Article 226.

9. The impugned orders (Annexures-A and B) are passed under the Act and Rules based on the safety norms and compliance issues. The Deputy Commissioner is well within the jurisdiction to cancel licence, seal premise and permit restoration repairs.

10. The petitioner has failed to establish any legal right and the impugned orders within the jurisdiction and statutory powers. No ground is made out for interference under Article 226 of the Constitution of India and accordingly the point framed for consideration is answered and the writ petition is hereby ***dismissed.***

Sd/-

JUSTICE K.S. HEMALEKHA

AT
List No.: 1 Sl No.: 75