

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.5959 OF 1999

SAI CHALCHITRA
ant(s)

Appell

VERSUS

COMMRSSIONER, MEERUT MANDAL & ORS.

Respondent(s)

Date: 17/02/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE A.K.MATHUR

For Appellant(s)

Dr. J.N.Dubey, Sr. Adv.

Mr. Anurag Dubey, Adv.

Mr. K.B. Upadhyay, Adv.

Mr. Arvind Tiwary, Adv.

Mr. S.R.Setia, Adv.

For Respondent(s)

Mr. E.C. Agrawala, Adv.

No.3

For RR 1&2

Mr. Punit Dutt Tyagi, Adv.

Mr. Mukesh Verma, Adv.

UPON hearing the Court made the following

O R D E R

Appeal is allowed in terms of the signed order.

(Parveen Kr. Chawla)

Court Master

(Kanwal Singh)

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5959 OF 1999

Sai Chalchitra

Appellant (s)

Versus

Commissioner, Meerut Mandal & Ors.

Respondent (s)

O R D E R

Appellant herein, who was the writ petitioner before the High

Court, filed the writ petition in the High Court of Judicature at

Allahabad, challenging the order passed by the Commissioner, Meerut

Mandal wherein the Commissioner had set aside the order passed by

the District Magistrate cancelling the licence given to Prakash Palance

Video Parlour, respondent No.3, to run a video parlour.

The main grievance of the appellant before the High Court

was that Prakash Palance Video Parlour, respondent No.3, was

situated within 350 meters from the Sai Chalchitra and hence no licence could be granted to respondent No.3 to run a video parlour under the U.P.Cinema(Regulation of Exhibition By Means of Video) Rules, 1988.

It was also asserted that the exhibition of video films by respondent No.3 had badly affected the cinema business of the appellant as the Video Parlour was situated very close to the cinema hall of the appellant. It was also submitted that the grant of licence in favour of respondent No.3 was in violation of the provisions contained in Section 7(1)-A (a) (b) © of the U.P. Regulation of Cinema Act, 1955. Under Section 7(1)-A, licence could be cancelled or revoked on the following grounds:

"(a) that the licence was obtained through fraud or misrepresentation; or

(b) that the licensing authority or the State Government while considering the application or appeal, as the case may be, under Section 5 was under a mistake as to a matter essential to the question of grant or refusal of licence; or

(c) that the licensee has been guilty of breach of the provisions of this Act or the rules made thereunder or of any conditions or restrictions contained in the licence, or of any direction issued under sub-section (4) of Sec. 5; or"

The writ petition was contested by the State of U.P. as well as respondent No.3.

Learned Single Judge, before whom the writ petition came

up for hearing, dismissed the writ petition on the locus standi of the

appellant to file the writ petition without going into the other questions of law. It was observed that the appellant could not raise a grievance against his rival in the trade particularly when the rival in trade, as in the instant case, was exhibiting cinematograph films much before the appellant was granted the licence. It was held that the appellant had not been denied or deprived of its legal right to exhibit the films and, therefore, he had not sustained any legally protected interest. It was also observed that the order of the Commissioner did not operate as a decision against the appellant as the appellant had not been suffered any legal wrong. The writ petition filed by the appellant was held not to be maintainable.

After hearing the counsel for the parties, we are of the opinion that the High Court clearly erred in dismissing the writ petition filed by the appellant on the ground of locus standi. The appellant being in the same trade as respondent No.3 has a right to seek the cancellation of the licence granted to respondent No.3 being in violation of Act and the Rules.

For the reasons stated above, the judgment impugned before us is set aside and the case is remitted back to the High Court for a fresh decision in accordance with law. The High Court would decide the matter afresh without being influenced by any of the observations made in this order. All contentions on facts and law are left open to the parties.

Appeal is allowed with no order as to costs.

.....J.
(ASHOK BHAN)

New Delhi;
. February 17, 2005.

.....J
(A.K. MATHUR)