

M/S. Laxmi Video Theaters And Others vs State Of Haryana And Others on 14 July, 1993

Equivalent citations: AIR1993SC2328, 1994(1)ALT11(SC), JT1993(4)SC218, (1993)IIILLJ42SC, 1993(3)SCALE103, (1993)3SCC715, [1991]1SCR894, [1993]SUPP1SCR159, 1992(2)SLJ14(SC), AIR 1993 SUPREME COURT 2328, 1993 (3) SCC 715, 1993 AIR SCW 2834, (1993) 2 APLJ 69.1, (1993) 2 LS 10, (1993) 4 JT 218 (SC), 1993 (2) REVLR 138, 1993 (2) UJ (SC) 313, (1993) 2 PAT LJR 123, (1993) SC CR R 580, (1994) 1 RRR 113, (1993) 3 SCJ 624, (1994) 1 ANDH LT 11, (1993) 2 CURCC 604

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Bench: P.B. Sawant, S.C. Agrawal

ORDER

S.C. Agrawal, J.

1. Leave granted.
2. Heard learned Counsel for the parties.
3. These appeals raise for consideration the question whether a video parlors wherein a pre-recorded cassette of a cinematograph film is exhibited through the medium of video cassette recorder (VCR)/video cassette player (VCP) falls within the ambit of the definition of 'cinematograph' contained in the Cinematograph Act, 1952 and the Punjab Cinemas (Regulation) Act, 1952 (hereinafter referred to as 'the Act').
4. The appellants have been running video parlors in the State of Haryana wherein pictures are exhibited through the medium of VCRs. They have not obtained any licence for such exhibition of pictures under the provisions of the Act and the Punjab Cinemas (Regulation) Rules, 1952 (hereinafter referred to as 'the Rules') as applicable in the State of Haryana. As they were required to obtain the necessary licence under the Act and the Rules, they moved the High Court of Punjab & Haryana for an appropriate writ declaring that they are not required to obtain such licence. The case of the appellants was that the VCR used for the purpose of playing a pre-recorded video cassette does not constitute 'cinematograph' as defined in Clause (a) of Section 2 of the Cinematograph Act, 1952 and the Clause (a) of Section 2 of the Act. A learned single Judge of the High Court by his

judgment dated May 7, 1991, rejected the said contention of the appellants and dismissed the writ petitions. The learned Judge has, in this regard, placed reliance on the earlier decision of a Division Bench of the said Court in *Deep Snack Bar, Sonapat and Ors. v. State of Haryana and Anr.*, wherein it was held that a VCR is included within the ambit of the definition of "cinematograph" contained in Section 2(a) of the Act. The learned single judge rejected the contention urged on behalf of the appellants that Section 3-A as inserted in the Punjab Entertainment Duty Act, 1955 in the State of Haryana in 1984 and Rule 8-A inserted in the Punjab Entertainment Duty Rules, 1956 in the State of Haryana in 1984 wherein separate provisions have been made for levy of entertainment duty on video shows indicate that video parlors have not been treated at par with regular cinemas. The learned judge held that the said provisions do not in any way affect the interpretation of the definition of the 'cinematograph' contained under Section 2(a) of the Act. Letters Patent Appeals filed against the said decision of the A learned single judge were dismissed in limine by a Division Bench of the High Court by its order dated November 26, 1991. Civil Appeals arising out of SLPs No.2219, 2255, 2344 and 2348 have been filed against the said orders of the Division Bench of the High Court dismissing the letters patent appeal against the order of the learned single judge. Civil Appeal arising out of SLP(C) NO.4706 has been filed against the order or the Division Bench of the High Court dated January 22, 1992 dismissing in limine the writ petition filed by the appellant in the said appeal.

5. The Cinematograph Act, 1952 has been enacted by Parliament to make provision for certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematograph. The expression 'cinematograph' is defined in Section 2(a) of the said Act as under :

(c) 'cinematograph' includes any apparatus for the representation of running pictures or series of pictures

6. The same definition of the expression 'cinematograph' is contained in Section 2(a) of the Act.

7. The decision of the Division Bench of the High Court of Punjab & Haryana in *Deep Snack Bar, Sonapat, and Ors. v. State of Haryana and Anr.* (supra) holding that the definition of 'cinematograph' contained in Section 2(a) of the Act, being an inclusive definition, would cover VCR which is used for representation of the motion pictures, is in line with the decisions of the other High Courts wherein also VCR has been held to be covered by the definition of 'cinematograph'. See : *Restaurant Lee and Ors. v. State of Madhya Pradesh and Ors.* AIR (1983) MP 146; *Balwinder Singh v. Delhi Administration* ; *Dinesh Kumar Hanuman Prasad Tiwari v. State of Maharashtra* .

8. We are in agreement with this view. The definition of the expression 'cinematograph' contained in Section 2(c) of the Cinematograph Act, 1952 and Section 2(a) of the Act is an inclusive definition which includes any apparatus for representation of moving pictures or series of pictures. The said definition cannot be confined in its application to an apparatus for representation of moving pictures or series of pictures which was known on the date of the enactment of the said provision. It must be given a meaning which takes into account the subsequent scientific developments in the field in accordance with principle of statutory construction laid down in *The Senior Electric Inspector v. Laxmi Naryana Chopra and Ors.* . In that case it has been held -

...In a modern progressive society it would be unreasonable to confine the intention of a Legislature to the meaning attributable to the word used at the time the law was made, for a modern Legislature making laws to govern a society which is fast moving must be presumed to be aware of an enlarged meaning the same concept might attract with the march of time and with the revolutionary changes brought about in social, economic, political and scientific and other fields of human activity. Indeed, unless a contrary intention appears, an interpretation should be given to the words used to take in new facts and situations, if the words are capable of comprehending them.

(pp.156-157)

9. The VCR/VCP were developed in 1970s and achieve the same purpose as the traditional media for exhibition of moving pictures. There is nothing in the Act which excludes the applicability of the Act to VCR/VCP.

10. The High Court was, therefore, right in holding that VCR/VCP are within the ambit of the definition of 'cinematograph' contained in Section 2(a) of the Act and the appellants in order to carry on the business of running video parlors or showing pre-recorded cassettes of films through the medium of VCR/VCP must obtain a licence in accordance with the provisions of the Act and the Rules.

11. The appeals are accordingly dismissed but with no orders as to costs.