

ITEM NO.22

COURT NO.1

SECTION X

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

Writ Petition(s)(Civil) No(s).552/2023

SUNSHINE PICTURES PVT. LTD. & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(WITH IA No. 99958/2023 - INTERVENTION APPLICATION, IA No. 99708/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 99449/2023 - STAY APPLICATION)

WITH

SLP(C) No. 10166/2023 (XI-A)

(WITH IA No. 100891/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 102247/2023 - INTERVENTION APPLICATION, IA No. 100894/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 10391/2023 (XII)

(FOR ADMISSION and I.R. and IA No.101746/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 18-05-2023 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s)

Mr. Harish N Salve, Sr. Adv.
Mr. ANS Nadkarni, Sr. Adv.
Mr. Ameet Naik, Adv.
Mr. Mahesh Aggarwal, Adv.
Mr. Raghav Shankar, Adv.
Ms. Madhu Gadodia, Adv.
Mr. Harshvardhan Jha, Adv.
Mrs. Yugandhara Pawar Jha, AOR
Mr. Ankur Saigal, Adv.
Mr. Sujoy Mukherjee, Adv.
Ms. Tarini Kulkarni, Adv.
Mr. Aman Pathak, Adv.
Ms. S. Lakshmi Iyer, Adv.

Mr. Chirag Nayak, Adv.
 Ms. Drishti Rajain, Adv.
 Ms. Pallavi Mishra, Adv.
 Mr. Salvador Santosh Rebello, Adv.
 Ms. Arzu Paul, Adv.
 Ms. Deepti Arya, Adv.

Mr. Huzefa A Ahmadi, Sr. Adv.
 Ms. Rashmi Singh, Adv.
 Ms. Sumita Hazarika, AOR

Mr. Kapil Sibal, Sr. Adv.
 Mr. P. Soma Sundaram, AOR
 Mr. S. Prabhu Ramasubramanian, Adv.
 Mr. Nizam Pasha, Adv.
 Mr. Bharathimohan M, Adv.
 Ms. Priya R, Adv.
 Ms. Subasri Jaganathan, Adv.
 Mr. Avinash Kumar, Adv.

For Respondent(s)

Dr. Abhishek Manu Singhvi, Sr. Adv.
 Mr. Gopal Sankaranarayanan, Sr. Adv.
 Mr. Sanjay Basu, Adv.
 Mr. Nipun Saxena, Adv.
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 Ms. Anju Thomas, Adv.
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 Ms. Mantika Haryani, Adv.
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 Ms. Deepti Arya, Adv.
 Ms. Manisha Gupta, Adv.

Mr. Amit Anand Tiwari, AAG
 Mr. Sabarish Subramanian, AOR

Intervenors

Mr. V.K. Biju, AOR
 Mrs. Ria Sachthey, Adv.
 Mr. Abhay Pratap Singh, Adv.
 Mr. Chetanya Singh, Adv.
 Ms. Vijay Lakshmi, Adv.
 Mrs. Deepa Joseph, Adv.
 Mr. Vasudev Mansha Ramani, Adv.
 Mrs. Rubina Jawed, Adv.

Mr. Varinder Kumar Sharma, AOR
 Mrs. Deeksha Gaur, Adv.
 Mr. Shantanu Sharma, Adv.
 Mrs. Parul Sharma, Adv.
 Mr. Yugal Kishore Prasad, Adv.

Mr. Kaleeswaram Raj, Adv.
 Mrs. Tulsi K Raj, Adv.
 Mr. Mohammed Sadique T.A., AOR

UPON hearing the counsel the Court made the following O R D E R

- 1 A Division Bench of the Madras High Court rejected the Writ Petition under Article 226 of the Constitution seeking to challenge the certification which was granted by the Central Board of Film Certification for the film "The Kerala Story".
- 2 A Division Bench of the Kerala High Court, while admitting a similar petition,

declined to grant interim relief.

- 3 The hearing of the petitions arising from the judgments of the Madras High Court and the Kerala High Court is deferred to the second week of July 2023, after the summer recess. Pleadings be completed in the meantime. Written submissions shall be filed by 2 July 2023.
- 4 The State of West Bengal has, by an order dated 8 May 2023, issued under Section 6(1) read with the proviso to Section 4 of the West Bengal Cinemas (Regulation) Act 1954 prohibited the exhibition of the film in the entire State of West Bengal.
- 5 *Prima facie*, the prohibition which has been imposed by the State of West Bengal suffers from over breadth and the statutory requirements for the imposition of such a prohibition have not been fulfilled on the basis of the material which has been disclosed in the counter affidavit.
- 6 Hence, the order of the Additional Secretary to the Government of West Bengal in the Department of Information and Cultural Affairs dated 8 May 2023 (Annexure P-9) is stayed.
- 7 In the counter affidavit which has been filed by the State of Tamil Nadu, it has been stated that :

“7. Furthermore, on 05.05.2023, the Director General of Police / Head of the Police Force. Tamil Nadu issued instructions to all the Commissioners of Police and District Superintendents of Police in the State to provide adequate security and protection to every cinema hall that had screened the Film. The State has made adequate arrangements for security to facilitate the screening of the Film, and to ensure that the

theatre owners, viewers and the audience are not endangered. Over 965 Police Personnel, including 25 DSPs, were posted for the protection of the 21 movie theatres which had screened the Film. (Annexure-II)

8. It is further submitted that, on 05.05.2023, demonstrations, agitations and picketing were staged in 19 places by various Muslim organizations. On 06.05.2023, demonstrations were held at 7 places in Chennai and Coimbatore. A total of nine cases, five in Chennai and four cases in Coimbatore were registered against the protesters. (Annexure-III)”

8 During the course of the hearing, it has been stated on behalf of the State of Tamil Nadu that the screening of the film has not been directly or indirectly prohibited within the State. While recording the contents of the counter affidavit and the submissions on behalf of the State of Tamil Nadu, we direct that :

- (i) Adequate security shall be provided to every cinema hall displaying the film and requisite arrangements shall be made to ensure the safety of movie goers who wish to see the film in any theatre where the movie is displayed; and
- (ii) No steps whatsoever, whether tacit or express, formal or informal, shall be taken by the State of Tamil Nadu or by any of its officers or instrumentalities including the police to prevent the screening of the film.

9 Mr Harish Salve, senior counsel appearing on behalf of the film producer submits that in order to set the controversy pertaining to the film at rest, the following disclaimer shall be added to the existing disclaimer which forms a part of the film no later than by 5.00 pm on 20 May 2023 :

- (i) There is no authentic data to back up the suggestion that the figure of conversion is 32,000 or any other established figure; and

- (ii) The film represents a fictionalised account of events forming the subject matter of the film.
- 10 The entire batch of petitions shall now be posted for final disposal on 18 July 2023.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR