

A

M/S. REGAL VIDEO

v.

STATE OF HARYANA AND OTHERS

JULY 14, 1993

B

[P.B. SAWANT AND S.C. AGRAWAL, JJ.]

Punjab Cinemas (Regulation) Rules, 1952—Rules 98- 100—Exhibition of pictures through VCR/VCP or Video Projector on a separate wide screen—When falls under.

C

Punjab Cinemas (Regulation) Act, 1952—Section 2(a)—‘Cinematograph’—Whether includes VCR/VCP and TV Projector.

Punjab Cinemas (Regulation) Rules, 1952—Rules 98- 100—Exhibition of pre-recorded video cassettes through VCR/VCP or Video projector on a separate wide screen—Licence—Necessity of.

D

The appellant was running a video parlour in Haryana. He was exhibiting pre-recorded cassettes of cinematograph films through video cassette recorder/video cassette player (VCR/VCP) and video projector on a separate wide screen.

E

On 29.9.1989, the Governor of the State of Haryana promulgated a notification to amend the Punjab Cinemas (Regulation) Rules, 1952. The amendment inserted Part IX containing Rules 98 to 100 making special provisions relating to video-cinemas in the Rules.

F

The appellant filed a writ petition in the High Court challenging the amendment. It was contended that VCR/VCP and a T.V. Projector did not fall within the ambit of the expression ‘cinematograph’ as defined under section 2(a) of the Punjab Cinemas (Regulation) Act, 1952; and that the appellant was not required to take a licence under the Act for running the video parlour.

G

The High Court, relying on the decision in *Raja Video Parlour v. The State of Punjab*, Civil Writ petition No.10150 of 1990, dismissed the writ petition.

H

Allowing the appeal, this Court

HELD : 1.1. The High Court was in error in disposing of the writ petition of the appellant on the basis of its decision in *Raja Video Parlour v. State of Punjab*, C.W.P. No.10150 of 1990, inasmuch as the said decision is based on the provisions contained in the Punjab Exhibition of Films on Television Screen through Video Cassette Players (Regulation) Rules, 1989 framed by the Government of Punjab while the present case comes from the State of Haryana where those rules are not applicable and the relevant rules are rules 98 to 100 introduced in the Punjab Cinemas (Regulation) Rules, 1952 by notification dated September 29, 1989. [167-D-E]

1.2. The provisions contained in the Punjab Rules considered by the High Court in the case of *Raja Video Parlour v. State of Punjab & Ors.*, were not so clear and the expression 'television screen' was construed by the High Court to mean the in-built screen of a TV set and a separate screen used in TV projector was excluded. This view of the High Court has been reversed by this Court. [168-B]

Raja Video Parlour & Others v. State of Punjab & Others, Civil Appeals arising out of SLP(C) Nos. 14830-32, 16071-75 and 16076 of 1992 disposed of on 14.7.1993 set aside *Raja Video Parlour & Others v. State of Punjab & Others*, Civil Writ Petition No. 10150 of 1990.

M/s. Shankar Video & Anr. v. State of Maharashtra & Ors., Civil Appeals arising out SLP(C) Nos. 13015 and 15302 of 1992 disposed of on 14.7.1993, relied on.

1.3. From a perusal of the rules 98-100 of the Punjab Cinemas (Regulation) Rules, 1952, it is evident that they include within their ambit exhibition of pictures through T.V. Projectors on a separate wide screen.

[167-F]

1.4. These provisions show that the screen can be separate and need not be in built in the television set. [168-A]

1.5. The definition of the term 'cinematograph' under Section 2(a) of the Punjab Cinemas (Regulation) Act, 1952 includes VCR/VCP as well as T.V. Projector. [167-B]

1.6. Exhibition of a pre-recorded cassette of a film through VCR/VCP and TV projector on a separate wide screen is covered by the Rules and the appellant must obtain a license under the Rules for carrying on the business of running video parlour. [168-D]

- A *Raja Video Parlours & Others v. State of Punjab & Others*, Civil Appeals arising out of SLP(C) Nos. 14830-32, 16071-75 and 16076 of 1992 disposed of on 14.7.1993; *M/s. Shanker Video & Anr. v. State of Maharashtra & Ors.*, Civil Appeals arising out of SLP(C) Nos. 13015 and 15302 of 1992 disposed of on 14.7.1993; *M/s. Laxmi Video Theatres & Others v. State of Haryana & Others*, Civil Appeals arising out of SLPs(C) Nos. 2344/92, 2219/92, 2348/92, 2255/92 and 4706/92 disposed of on 14.7.1993, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No.3289 of 1993.

- C From the Judgment and Order dated 28.1.1993 of the Punjab and Haryana High Court in C.W.P. No.1231/93.

D.V. Sehgal, Ms. Neelam Kalsi and Vimal Dave for the Appellant.

Ms. Rajkumari Kashyap for the Respondent.

- D The Judgment of the Court was delivered by

S.C. AGRAWAL, J. Leave granted.

Heard learned counsel for the parties.

- E The appellant carries on business of running a video parlour in the State of Haryana where pre-recorded cassettes of cinematograph films are exhibited through video cassette recorder/video cassette player (VCR/VCP) and video projector on a separate wide screen. By notification dated September 29, 1989 the Governor of Haryana amended the Punjab Cinemas (Regulation) Rules, 1952 as applicable in the State of Haryana, (hereinafter referred to as 'the Rules') and Part IX (containing Rules 98 to 100) making special provisions relating to video-Cinemas was inserted in the Rules. The appellant filed a writ petition in the High Court of Punjab & Haryana wherein it was submitted that VCR/VCP and a T.V. Projector do not fall within the ambit of the expression 'cinematograph' as defined under Section 2(a) of the Punjab Cinemas (Regulation) Act, 1952 (hereinafter referred to as 'the Act') and that the appellant is not required to take a licence under the said Act for running the video parlour. The said writ petition of the appellant was dismissed *in limine* by a Division Bench of the High Court by its order dated January 28, 1993 for the reasons given
- H in the judgment dated August 5, 1992 in Civil Writ Petition no.10150 of

1990, *Raja Video Parlour v. The State of Punjab*. Feeling aggrieved by the said decision, the appellant has filed this appeal. A

The question whether VCR/VCP and T.V. projector are covered by the definition of 'cinematograph' contained in Section 2(a) of the Act has been considered by us in *M/s. Laxmi Video Theatres & Others v. State of Haryana & Others*, Civil Appeals arising out of SLPs(C) Nos.2344/92, 2348/92, 2219/92, 2348/92, 2255/92 and 4706/92, in which judgment has been pronounced today wherein we have held that the definition of the term 'cinematograph' under Section 2(a) of the Act includes VCR/VCP as well as T.V. Projector. B

The decision of the High Court in *Raja Video Parlour v. State of Punjab*, (supra) has also been set aside by us in our judgment pronounced today in *Raja Video Parlours & Others v. State of Punjab & Others*, (Civil Appeals arising out of SLP(C) Nos.14830-32, 16071-75 and 16076 of 1992). C

We are, however, of the view that the High Court was in error in disposing of the writ petition of the appellant on the basis of its decision in *Raja Video Parlour v. State of Punjab*, (supra) inasmuch as the said decision is based on the provisions contained in the Punjab Exhibition of Films on Television Screen through Video Cassette Players (Regulation) Rules, 1989 framed by the Government of Punjab while the present case comes from the State of Haryana where those rules are not applicable and the relevant rules are Rules 98 to 100 introduced in the Rules by notification dated September 29, 1989. From a perusal of the said rules, it is evident that they include within their ambit exhibition of pictures through T.V. Projectors on a separate wide screen. The expression 'video cinema', as defined in Rule 98, means "any place wherein an exhibition of moving picture or series of pictures is given by means of a video cassette recorder/player, or any such similar instrument or device". Rule 100 makes provision for seating arrangement and other conditions for exhibition of video films. Clause (v) of sub-rule (1) lays down - D

"(v) The minimum distance between the video-screen or television and the front row of seats shall not be less than 2.40 metres and no person shall be admitted within such space". (Emphasis supplied) E

In sub-rule (2) of Rule 100, it is provided that "the television set or F

G

H

- A screen for exhibition of video films shall be kept at appropriate height so as to be visible to the viewers sitting in the last row. (Emphasis supplied)

These provisions show that the screen can be separate and need not be inbuilt in the television set.

- B The provision contained in the Punjab Rules considered by the High Court in the case of *Raja Video Parlour v. State of Punjab & Ors.*, (supra) were not so clear and the expression 'television screen' was construed by the High Court to mean the inbuilt screen of a TV set and a separate screen used in TV projector was excluded. This view of the High Court has been reversed by this Court relying upon the decision in *M/s. Shankar Video & Anr. v. State of Maharashtra & Ors.*, Civil Appeals arising out of SLP(C) Nos. 13015 and 15302 of 1992 in which judgment has been pronounced today. Keeping in view the said decisions in *M/s. Shankar Video & Anr. v. State of Maharashtra & Ors.*, (supra) and in *Raja Video Parlour & Ors. v. State of Punjab & Ors.*, (supra), and the provisions of Rule
- C
- D 100(1)(v) and 100(2) as applicable in the State of Haryana, it must be held that exhibition of a pre-recorded cassette of a film through VCR/VCP and TV projector on a separate wide screen is covered by the Rules and the appellant must obtain a licence under the Rules for carrying on the business of running video parlour.

- E The appeal is, therefore, allowed and the order of the High Court dismissing the writ petition of the appellant is set aside and the said writ is disposed of in terms of this judgment with no orders as to costs.

V.P.R.

Appeal allowed.