

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 941 OF 2014

Trade Centre Developers and Builders
Pvt. Ltd. (through its Managing
Director Mr. Ishwar C. Parmar) .. Petitioner

vs.

Bharat Petroleum Corporation
Limited and anr. .. Respondent

Mr. K. Y. Mandlik for the Petitioner.
Mr. S.R. Page for Respondent No.1.

CORAM : M. S. SONAK, J.
DATE : 28 JULY 2015.

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] The Appeal Court, in the present case, has not decided most of the issues raised in the appeal. The dismissal of the appeal is basically on the ground that one months' notice dated 28 December 2001 was insufficient notice, as Section 106 of the Transfer of Property Act, 1882 (said Act), contemplates notice of six months. This reasoning does not appear to be correct, particularly because there is no proper discussion upon whether the lease in the present case was from year to year or from month to month. This is also not

a case where any presumption as contemplated by Section 106 of the said Act could have been drawn, because the lease was not for either agricultural or manufacturing purposes. Besides, the Appeal Court has not taken into consideration the position arising out of the decisions of the Apex Court in case of *Burmah Shell Oil Distributing now known as Bharat Petroleum Corporation Ltd. vs. Khaja Midhat Noor and ors.*¹ and *Bharat Petroleum Corporation Limited vs. Rama Chandrashekar Vaidya and anr.*², in the context of Burmah Shell (Acquisition of Undertakings in India) Act, 1976 and its effect upon the leases entered into by the respondent, i.e., Bharat Petroleum Corporation Ltd. For all these reasons, it would be appropriate if the impugned order is set aside and the matter is remanded to the Appeal Court for reconsideration of all the issues raised in the appeal.

3] In the aforesaid circumstances, the impugned order dated 22 July 2014 made by the Appeal Court is set aside and matter is remanded to the Appeal Court for reconsideration upon all the issues which arise in the appeal.

1 (1988) 3 SCC 44

2 2013 AIR SCW 2998

4] All contentions of all parties are, however, kept open for the decision by the Appeal Court.

5] Rule is made absolute to the aforesaid extent. There shall, however, be no order as to costs.

6] All concerned to act upon an authenticated copy of this order.

(M. S. SONAK, J.)

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