

THE HON'BLE SRI JUSTICE SANJAY KUMAR

SECOND APPEAL NO.234 OF 2015

DATED 26th JUNE, 2015

Between:

M/s. Bharat Petroleum Corporation
Limited, Secunderabad

.. Appellant

and

Kalagara Siva Rama Krishna Prasad
and another

.. Respondents

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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J U D G M E N T

The defendant in O.S.No.573 of 2003 on the file of the learned I Additional Junior Civil Judge, Eluru, is the appellant. The said suit was decreed by the trial Court by judgment dated 17.04.2009. The appellant was unsuccessful in challenging the said judgment and decree before the lower appellate Court of the I Additional District Judge, West Godavari, Eluru, in A.S.No.111 of 2010. The judgment and decree passed by the lower appellate Court on 24.02.2015 are under appeal presently.

The dispute between the parties relates to the occupation of the suit schedule property by the appellant herein in exercise of the statutory option available to it under Section 7(3) of the Burmah Shell (Acquisition of Undertaking in India) Act, 1976. Both the Courts below found that the appellant-defendant was not entitled to exercise of such option more than once. This was in keeping with the Division Bench judgment of this Court in **MUSTAGA HUSSAIN V/s. UNION OF INDIA**^[1]. In that view of the matter, as the legal position is well settled, this Court sees no reason to entertain this appeal. No question of law much less substantial question of law arises for consideration in the context of the interpretation of the aforestated provisions which have been tried and decided several times over.

The second appeal is therefore devoid of merit and is accordingly dismissed.

Sri O.Manohar Reddy, learned counsel for the appellant, would

however submit that the corporation is running a retail out-let in the suit schedule property and that its eviction therefrom without notice abruptly would cause disruption of the distribution of essential petroleum products to the general public. He states that some reasonable amount of time may be permitted to the appellant-corporation to vacate the said premises.

It is however noticed that the appellant-corporation has been in possession of the property since 1967 i.e. the owners had been effectively deprived of the enjoyment thereof by virtue of the statutory option exercised by the appellant corporation. As the lower appellate Court granted two months time to vacate the suit schedule property from the date of the decree and as this appeal was filed well after the expiry of the stipulated period, this Court is inclined to grant two more months time to the appellant-corporation. The appellant-corporation shall therefore vacate and handover the vacant physical possession of the suit schedule property to the respondents within two months from today.

Pending miscellaneous petitions, if any, shall also stand dismissed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

26th JUNE, 2015
PGS

[\[1\]](#) AIR 1981 A.P. 283