

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.63 OF 2016

Ganesh Chandrakant Sawant and Crisana
Synthetics Pvt.Ltd.

Petitioner

versus

Bharat Petroleum Corporation Ltd. & others

Respondents

Ms.Ginni Ahuja i/by Mr.Shoaib I. Memon for Petitioner.
Mr.Shivprasad R. Page for Respondents 1 and 2.

CORAM : S.C.DHARMADHIKARI AND
G.S.PATEL, JJ.

DATE : 10 February 2016

PC :

1. This writ petition under Article 226 of the Constitution of India ordinarily would not have been entertained because it challenges an interim order with regard to venue of hearings. The Petitioners are admittedly proceeded against by Bharat Petroleum Corporation Limited ('BPCL') under Public Premises (Eviction of Unauthorized Occupants) Act, 1971 ('the Act'). The second Respondent is the Estate Officer, Western Region of BPCL.

2. The grievance of the Petitioners is that they are based at Vile Parle (West), Mumbai-400 056. That is a suburb on the Western Railway line and equally a station. The Petitioners complain that the second Respondent Estate Officer has moved his office to the address namely at Kharghar, Navi Mumbai, District Thane. This location and which is changed mid-way, has affected the Petitioners and outcome of the legal proceedings. The Petitioners may have to travel all the way to another district and from a western suburb.

3. The Petitioners in paragraph 25 of the petition have stated that this amounts to shifting the local limits to a distinct district. That is impermissible because public premises are located in one district whereas the Estate Officer is presiding over from another district or local limits. This would not expedite the proceedings but delay them.

4. If inconvenience caused, according to the Petitioners, is also a relevant factor as far as interest of justice is concerned, then, a direction that the Estate Officer should conduct the proceedings at Bharat Bhavan, Currimbhoy Road, Ballard Estate, Mumbai-400 001 within the local limits of which the subject public premises is located, be issued.

5. On the earlier occasion Mr. Page appeared and accepted notice on behalf of Respondent nos.1 and 2 and sought

time to take instructions and file a reply. The affidavit of the Regional Manager and constituted attorney of the First Respondent Corporation is filed today. We have taken it on record. In paragraph 4 of this affidavit, it is stated that presently three proceedings are continued to be conducted at Kharghar by the Estate Officer. The details of these proceedings are set out in paragraph no.4. Secondly, it is urged that the writ petition deserves to be dismissed because these are delaying tactics. There is presently an on-going cross examination of the witness produced by the First Respondent Corporation. It is then submitted that by virtue of the provisions of the Act and the Rules framed thereunder, the Corporation is empowered to notify the appointments and local limits / territorial jurisdiction of each Estate Officer. That is a policy decision and in regard to which a writ Court cannot issue directions in the absence of any miscarriage of justice being proved and established. In these circumstances that it is prayed that the writ petition be dismissed.

6. We have heard both sides on this limited point. Ordinarily, Mr. Page is right in contending that in such matters and at such interlocutory stage, this Court is disinclined to exercise its writ jurisdiction. In writ jurisdiction, this Court cannot direct that a particular location ought to be the venue of the legal proceedings or that territorial jurisdiction and which is vested in a Court or a Tribunal ought to be exercised in a

particular manner and by taking into consideration the convenience of all parties on all occasions. However, what we find in paragraph 15 of the affidavit-in-reply of Respondent no.1 Corporation is that the premises in question are situate at Vadi Bundar, Mumbai. The earlier venue of the hearing was at Ballard Estate, Mumbai and the Petitioners are based in the western suburbs at Vile Parle (West), Mumbai. The Petitioners based at Vile Parle (West), Mumbai do not have any objection to travel right up to Ballard Estate, Mumbai and subject themselves to the jurisdiction of the Estate Officer at that place. Now the hearings are held by the Estate Officer at Respondent no.1's western regional office, Plot No.6, Sector 2, 7th Floor, Conference Hall, Kharghar, Navi Mumbai (District Thane) as the Deputy General Manager-Sales (Retail-West) is having his office at Kharghar, Navi Mumbai (Thane District). At Ballard Estate, Respondent no.1 has its registered office, at which location, ordinarily, the Deputy General Manager-Sales (Retail-West) ought to have conducted the proceedings under the Act in the larger interest of public.

7. Without creating any precedent for the future cases, we direct that this Ballard Estate office of Respondent no.1 Corporation shall be the location at which subject proceedings shall be taken-up and decided. The Petitioners will not object to the sitting venue at Ballard Estate. The Petitioners shall subject themselves to the territorial jurisdiction of the Estate Officer and

limits of Deputy General Manager-Sales (Retail-West) at Ballard Estate office. The said Deputy General Manager-Sales (Retail-West) shall conclude the proceedings as expeditiously as possible and within a period of six months from the date of receipt of a copy of this order. The Petitioners have agreed not to apply and seek unnecessary adjournments.

8. The writ petition is disposed of. No order as to costs.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)

MST