

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. Nos. 13585 & 14091 of 2016
&
W.M.P. Nos. 11891 & 12297 of 2016

W.P. No.13585 of 2016

Bharat Petroleum Corporation Ltd.,
rep. by its Territory Manager (Retail),
Shri V. Arul Muthunathan,
having office at Irugur Top Installation,
Ravathur, Coimbatore 641 103. ..Petitioner

Vs.

1. State of Tamil Nadu,
rep. by its Secretary,
Municipal Administration and
Water Supplies Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. Commissioner of Municipal
Administration,
Ezhilagam, Chempauk,
Chennai - 600 005.
3. Commissioner,
Udumalpet Municipality,
Udumalpet,
Tripur District. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to quash the impugned order of the 3rd respondent under Ref. Na.Ka.No. 4272/2009/A3 dated 23.03.2016 and consequently, to forbear the respondents, their men, servants, agents and others from interfering with the petitioner's peaceful possession and enjoyment of the retail outlet of the petitioner situated in Survey No. 245-H, T.S. No.3, Ward No.D, Block No.4, Municipal Ward No.11 of Udumalpet, Municipal Area bearing S.No. 245H of an extent of 1262 square metres.

For Petitioner :: Mr.O.R. Santhanakrishnan
For Respondents:: Mr.RM. Muthukumar,
Govt. Advocate for
R1 & R2
Mr.A.S. Thambusamy &
Mr.B. Anand for R3

W.P. No. 14091 of 2016

M/s. Indian Oil Corporation Limited,
rep. by its Chief Divisional Manager,
Mr.C. Sharat Kumar,
(Marketing Division),
Coimbatore Divisional Office,
Indian Oil Bhavan,
8/1079, Avinashi Road,
Coimbatore 641 018.

..Petitioner

Vs.

Municipal Commissioner,
Udumalpet Municipality,
Udumalpet,
Tirupur District.

..Respondent

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Certiorari to call for the
records of the respondent in Na.Ka.4272/2009/A3 dated 04.03.2016
and 23.03.2016 and to quash the same.

For Petitioner :: Mr.M. Ravindran,
Senior Counsel for
Mr.V. Anantha Natarajan

For Respondent :: Mr.A.S. Thambusamy
& Mr.B. Anand

सत्यमेव जयते
COMMON ORDER

W.P. No. 13585 of 2016 has been filed challenging the
order of the 3rd respondent dated 23.03.2016, by which the lease
granted to the petitioner was terminated and the petitioner
Corporation was directed to hand over vacant possession of the
land leased out to them by the respondent Municipality failing
which it was informed that steps would be taken to evict them
and for a consequential direction to forbear the respondents,
their men, servants, agents and others from interfering with the
petitioner's peaceful possession and enjoyment of the retail
outlet of the petitioner situated in Survey No. 245-H, T.S.

No.3, Ward No.D, Block No.4, Municipal Ward No.11 of Udumalpet, Municipal Area bearing S.No. 245H of an extent of 1262 square metres.

2. W.P. No. 14091 of 2016 has been filed challenging the orders dated 04.03.2016 and 23.03.2016 terminating the lease granted to the petitioner and directing the petitioner to hand over vacant possession of the land belonging to the respondent Municipality failing which it was informed that steps would be taken to evict them.

3. As far as W.P. No. 13585 of 2016 is concerned, the petitioner Corporation was granted lease to run a petrol bunk by the 3rd respondent in the property situated in Survey No. 245-H, T.S. No.3, Ward No.D, Block No.4, Municipal Ward No.11 of Udumalpet, Municipal Area bearing S.No. 245H of an extent of 1262 square metres, by virtue of lease deed dated 19.01.2011 and the period of lease was from 01.04.2010 till 31.03.2019. However, the 3rd respondent, by the impugned proceedings, terminated the lease, stating that the lease period had come to an end on 31.03.2013 itself by efflux of time; that the lease had been granted in violation of the Rules and further, that the land in the occupation of the petitioner Corporation is required by the 3rd respondent Municipality for expansion of Bus Terminus, as steps are underway for widening Palani Highway Road.

4. As far as W.P. No. 14091 of 2016 is concerned, the petitioner therein was granted lease by the respondent to run a petrol bunk in the property situated at S.F. No. 143/1, T.S. No. 10, Ward "F" Block 1 of Municipal Ward No.9 of Udumalpet Municipality, measuring an extent of 9080 sq.ft in 2770 sq.mts, by virtue of lease deed 23.07.2010 and the period of lease was from 01.04.2010 till 31.03.2019. However, the respondent, by the impugned proceedings, terminated the lease, stating that the lease period had come to an end on 31.03.2013 itself by efflux of time; that the lease had been granted in violation of the Rules and further, that the land in the occupation of the petitioner Corporation is required by the respondent Municipality for making it as an entry point to the weekly shandy.

5. Heard Mr.O.R. Santhanakrishnan, learned counsel for the petitioner in W.P. No. 13585 of 2016, Mr.M. Ravindran, Senior counsel appearing on behalf of Mr.V. Anantha Natarajan, learned counsel for the petitioner in W.P. No. 14091 of 2016, Mr.RM. Muthukumar, learned Government Advocate for respondents 1 and 2 in W.P. No. 13585 of 2016 and Mr.M.S. Thambusamy, learned counsel appearing on behalf of the Udumalpet Municipality.

6. A perusal of the lease deeds dated 19.01.2011 and 23.07.2010 would reveal that the period of lease, in respect of both the petitioners, comes to an end only on 31.03.2019 and therefore, the respondent Municipality should not have issued the impugned orders stating that the period of lease came to an end on 31.03.2013 itself by efflux of time. Further, the lease deed has been entered into by the respondent Municipality with the respective petitioners on 19.01.2011 and 23.07.2010 and when the respondent Municipality is a party to the respective lease deeds, it is not open to the respondent Municipality, to contend, that the lease has been entered into, contrary to law. On both grounds, the orders under challenge, in these writ petitions, cannot be sustained.

7. However, taking into consideration, the public purpose for which the property concerned in the respective writ petitions, are required by the respondent Municipality, namely, for expansion of Bus Terminus (W.P. No. 13585 of 2016) and for providing an entry point to the weekly shandy (W.P. No. 14091 of 2016), the intention of the respondent Municipality cannot be suspected. Though the reasonings given in the impugned orders for terminating the lease granted to the respective petitioners, are untenable, the purpose for which the properties are required by the respondent Municipality, is in public interest. Therefore, while setting aside the impugned orders, it is open to the respondent Municipality to issue proper notice to the respective petitioners, with regard to termination of lease, at the earliest and proceed in accordance with law.

8. This Court hopes and expects that the respective petitioners, taking into consideration, the public purpose for which the property in their occupation, are sought by the respondent Municipality, would act accordingly.

9. In the result, W.P. No. 13585 of 2016 is partly allowed and W.P. No. 14091 of 2016 is allowed. No costs. Connected W.M.Ps are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

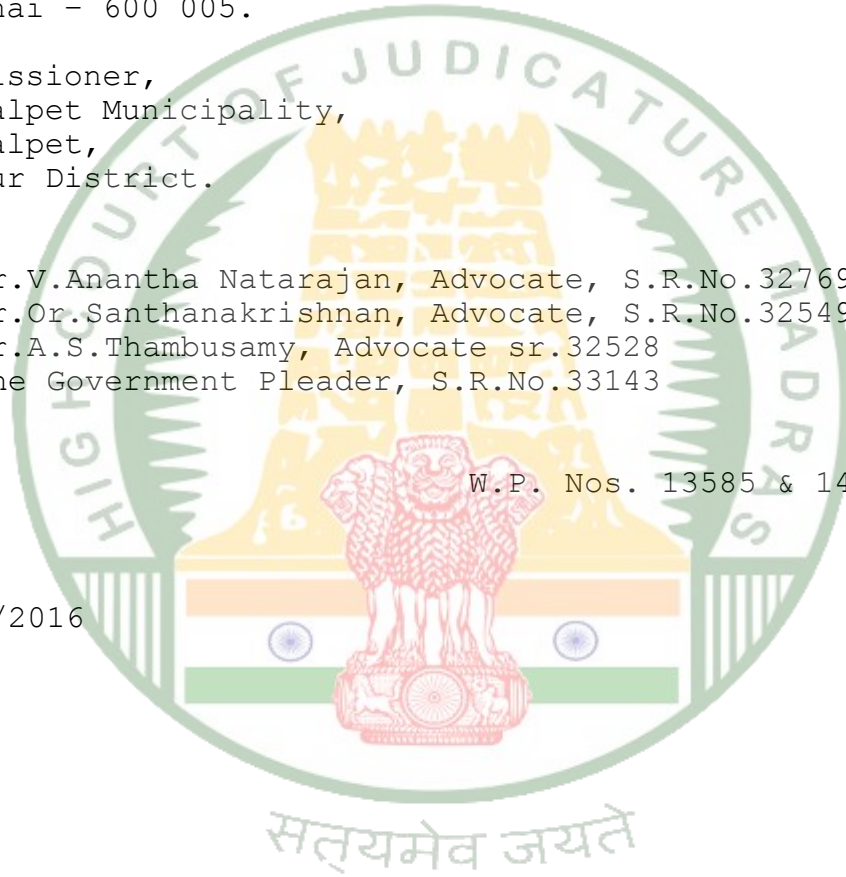
To

1. The Secretary,
Municipal Administration and
Water Supplies Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. Commissioner of Municipal
Administration,
Ezhilagam, Chempauk,
Chennai - 600 005.
3. Commissioner,
Udumalpet Municipality,
Udumalpet,
Tripur District.

+1cc to Mr.V.Anantha Natarajan, Advocate, S.R.No.32769
+1cc to Mr.Or.Santhanakrishnan, Advocate, S.R.No.32549
+1cc to Mr.A.S.Thambusamy, Advocate sr.32528
+1cc to the Government Pleader, S.R.No.33143

W.P. Nos. 13585 & 14091 of 2016

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