

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2016

CORAM :

The Hon'ble MR.JUSTICE RAJIV SHAKDHER

AND

The Hon'ble MR.JUSTICE S.M.SUBRAMANIAM

W.A. No.1611 of 2016
and C.M.P.No.19886 of 2016

K.Sudha

Sole Proprietrix, M/s.Venkateswara Agencies.

.. Appellant/4th respondent

-vs-

- 1.Hindustan Petroleum Corporation
Ltd., Rep. By its Chief Regional
Manager, Trichy Retail Regional
Office, 90, 2nd Floor, MDSR Enclave,
Bharathidasan Road, Cantonment,
Trichy-1.
- 2.The Director General of Police,
Puducherry Police, No.2, Dumsa
Street, White Town, Puducherry 605001.
- 3.The Superintendent of Police,
Puducherry South, Puducherry.
- 4.The Inspector of Police,
Karikalambakkam Police Station,
Pondicherry.

.. Respondents

Appeal filed under Clause 15 of the Letters Patent against the interim order dated 02.12.2016 passed in W.M.P.No.32667 of 2016 in W.P.No.38112 of 2016 on the file of this Court. Petition filed to grant an interim order directing the respondents 1 to 3 in give protection to petitioners officials order, agents, assignees etc., a file recording the wire fencing covering the entire frontage/which is restricting access of the petitioners retail outlet at Karikalan bakkem(in WMP.32667/2016 and petition filed under article 226 of the constitution of India to issue a writ of directing the respondents 1 to 3 to offered police

protection to petitioners retail out let at S.No.52/2015, Karikalambakkam village, Puducherry from the miscreants/henchman of the 4th respondent (in WP.38112/2016)

For Appellant : Mr.V.Raghavachari
for Mr.S.C.Vishwanth

For Respondents : Mr.M.Vijayan for R-1
for M/s.King & Partridge

: Mr.Sankara Subramaniam
for RR 2 to 4

J U D G M E N T
(Judgment of the Court was delivered by Rajiv Shakhder, J.)

1.On the last date of hearing, i.e., 09.12.2016, the following order was passed by us:

' 1.Mr.V.Raghavachari, learned counsel appearing for the petitioner (sic: appellant), on instructions, says that the petitioner (sic: appellant) is in possession of the Petrol Bunk as of today.

2.Mr.K.T.Sankar Subramaniam, who appears on advance notice for the respondent Corporation contends to the contrary.

3.This fact has to be ascertained by the Court.

4.Accordingly, the parties are directed to maintain status quo as of now, i.e., 3.15 p.m.

5.The respondent Corporation will file its counter affidavit by the next date of hearing.

6.Re-notify on 12.12.2016.'

2.It is not denied that respondent no.1 / Corporation has filed a petition under Section 17 of the Arbitration and Conciliation Act, 1996, which is pending consideration before the learned Arbitrator. We have asked the learned counsel for the appellant as to what is the next date of hearing before the learned Arbitrator. Learned counsel for the appellant is not able to inform us as to whether or not any further date of hearing has been fixed by the learned Arbitrator. We have also queried the learned counsel for respondent no.1 / Corporation as to whether any date has been fixed. In this behalf, he has also been of no assistance.

3.Nevertheless, in view of the grievance raised by the appellant before us, according to us, the best course of action would be that the learned Arbitrator takes up the application filed by respondent no.1 / Corporation under Section 17 of the 1996 Act and dispose of the same in the first instance. Pending

adjudication of the application under Section 17 of the 1996 Act, the interim order passed by us on the previous date, i.e. 09.12.2016, shall continue to operate.

4.This arrangement will operate based on an undertaking of the learned counsel for the appellant that in case respondent no.1 / Corporation was successful in obtaining the relief sought for in its application under Section 17 of the 1996 Act, the appellant would hand over the peaceful possession of the petrol bunk within one (1) week of the passing of the order.

4.1.Learned counsel for respondent no.1 / Corporation is agreeable to the aforesaid direction being issued.

4.2.Accordingly, no further steps will be taken by respondent no.1 / Corporation to precipitate the matter further, in line with the liberty granted by the learned Single Judge, in terms of the observation contained in paragraph 4 of the order dated 02.12.2016.

5.Writ Appeal is disposed of with the aforesaid observations. No costs. Consequently, C.M.P.No.19886 of 2016 stands closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

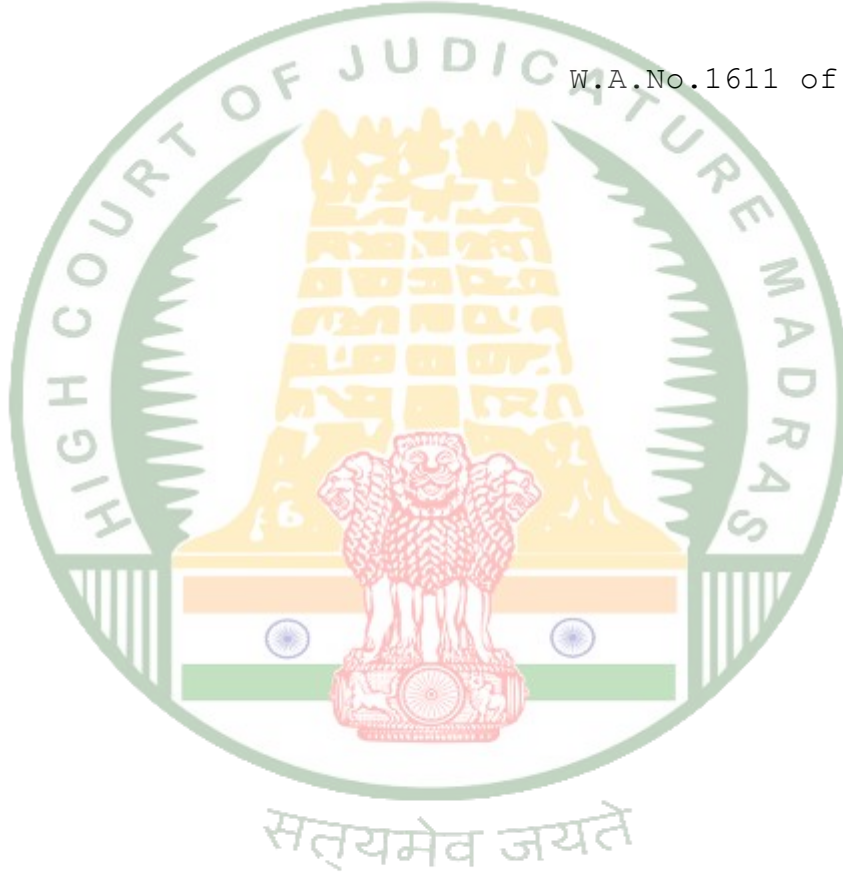
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3.The Inspector of Police,
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Pondicherry.

+1cc to Mr.King & Partroleum, Advocate, S.R.No.73197
+1cc to Mr.S.C. Vishwanth, Advocate, S.R.No.72740

kk(CO)
md(04/01/2017)

W.A.No.1611 of 2016



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