

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2016
Coram

The Honourable Mr.Justice HULUVADI G.RAMESH
and
The Honourable Mr.Justice V.PARTHIBAN

W.A. No. 988 of 2016 and
CMP No.17346 of 2016

Bharat Petroleum Corporation Ltd.
Rep. By its Territory Manager-Retail
Mr.Narayanan K, Athur & kadaparai Village,
Erode Road, Athur Post, Karur 639 002. .. Appellant/Petitioner

Vs.

- 1 The Additional Director General of Police,
(Law and Order), Post Box No.601
Dr.Radhakrishnan Salai, Chennai 600 004.
- 2 The Director General of Police,
Post Box No.601 Dr.Radhakrishnan Salai,
Chennai 600 004.
- 3 The Designated Authority/Commissioner
of Police, Salem City, Salem.
- 4 Tmt. M.Ashrafunnisa
D/o. Mehaboob Khan
- 5 Ms.M.Meharunnisa,
D/o. Mehaboob Khan
- 6 Gowrishankar
M/s. K.M.B. Agencies, Fuels & Oils
No.114, Omalur Main Road,
Four Roads, Salem. ...Respondents/Respondent

Writ Appeal is filed under Clause 15 of the Letters Patent, seeking to set aside the order dated 08.06.2016 passed in W.P.No.26729 of 2015 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari by calling for the records of the 1st respondent culminating in the unpagged of irder dated 20/06/2015 and to quash the same in Appeal No.1/2015 under Ref. C. No.160936/General.1/2014.

For Appellant : Mr. O.R.Santhanakrishnan
For RR 2 & 3 : Mr.P.S.Sivashanmugasundaram, Spl GP
For 4th Respondent : Mr.A.Esakkiappan

JUDGMENT

This Writ Appeal has been filed by the appellant/Bharat Petroleum Corporation Ltd., Government of India undertaking, against the order of the learned single Judge passed in W.P.No.26729 of 2015, dated 08.06.2016 dismissing the writ petition.

2. Heard Mr. O.R.Santhanakrishnan, learned counsel appearing for the appellant and Mr.P.S.Sivashanmugasundaram, Special Govt. Pleader on behalf of the respondents 2 & 3 and Mr.A.Esakkiappan, learned counsel appearing for the respondents 4 and 5.

3. The appellant has approached this Court in Writ Petition No. 26729 of 2015, challenging the order passed by the first respondent herein dated 20.06.2015, whereby the first respondent dismissed the appeal against the order passed by the third respondent herein, cancelling the No Objection Certificate issued to the appellant for running Petroleum outlet in Salem District.

4. According to the appellant herein, they entered into a lease agreement dated 29.10.1957 with one Mr.Mehaboob khan son of Khader Khan, for a period of ten years from 01.11.1956, in respect of the property situated in Salem for running a Petroleum outlet. Originally, the lease was taken by M/s.Burmah Shell Oil Storage and Distributing Company of India Limited, and subsequently, after nationalization, they became Bharat Petroleum Corporation Ltd. The lease originally provided for a period of ten years with an option for renewal for a further period. As per lease agreement, the lease was renewed for ten more years from 01.11.1956 to 01.11.1966.

5. According to the appellant, the said lease was further extended for a period of ten more years from 1966 to 1976. Though it is stated that the lease was extended up to 1986, there was no document to show that extension had taken place. It appears that without valid extension of lease, the appellant continued to occupy the said premises and operated their outlet under license given to the sixth respondent herein. Subsequently, the original owner of the premises had died in the year 2006 and the lease having not been extended, the appellant

continued to do their business unauthorizedly. It appears that even meagre rent payable for the occupation of the premises has also been stopped from February 2005 onwards. Without proper extension and payment of rent, the appellant has been squatting over the property illegally.

6. In the above circumstances, the legal heirs of the original owners, namely, respondents 4 & 5, represented to the 3rd respondent for cancellation of No Objection Certificate issued to the appellant/Corporation. In response to the representation, enquiry was conducted and the representatives of the Corporation had also participated in the enquiry. On conclusion of the enquiry, the 3rd respondent, the designated Authority under provisions of the Petroleum Act 1934, cancelled the No Objection Certificate as per Rule 150(1) of the Petroleum Rules 2002. Aggrieved by the order of cancellation, the Corporation has filed a statutory appeal before the 1st respondent. The 1st respondent, after due consideration of all the issues and after hearing all the parties connected to the disputed Appeal, confirmed the order passed by the 3rd respondent and dismissed the Appeal vide proceedings dated 20.06.2015. Challenging the said order dated 20.06.2015, the appellant herein has approached this Court in the aforementioned Writ Petition.

7. In the proceedings before the learned Single Judge, several contentions were raised on behalf of the appellant and the same were rightly resisted by respondents 1 to 5 herein. On behalf of the Corporation, it was argued that there was no justification for cancelling the No Objection Certificate originally granted. However, after adverting to the submissions put forth by the parties, the learned Judge passed a very detailed order holding that the impugned order passed by the respondents 1 and 3 did not require any interference and the same was justified in the circumstances of the case.

8. From the order passed by the learned Single Judge it could be seen that the conduct of the Corporation is far from befitting its status as a Government of India Enterprise and for no valid and justifiable reason, the Corporation was squatting over a private property for more than three decades without even paying any rent and the status of their occupation in the subject place was nothing but trespassing. A feeble attempt had been made on behalf of the Corporation that rents could not be paid from 2005, since the death of original owner was not informed to the corporation by the legal heirs of the deceased, namely, the respondents 4 & 5 herein. The said

arguments on behalf of the Corporation did not carry any conviction for the simple reason that for years together statutory Corporation, the appellant herein, cannot hold back the rent payable without verifying the basic fact as to whom the rent was payable on the death of the father of the respondents 4 & 5.

9. Moreover, on behalf of the Corporation, it was contended before the learned Judge that the tenancy was protected under the Tamil Nadu City Tenants Protection Act and the Corporation has a right to purchase the land which has been in their occupation. The said contention was rightly dismissed by the learned Single Judge holding that since the tenant cannot be construed to be a statutory tenant without proper extension of lease, the occupation of the appellant was unauthorized and illegal, that too, for more than three decades and, therefore, the question of giving any protection to the appellant did not arise at all. After 1986, the occupation of the appellant in the subject place had lost its character of tenancy and hence, the learned Single Judge rightly dismissed the contentions put forth by the Corporation. Moreover, it also appears that way back on 1995 itself, the original owner of the subject place sent a letter to the Corporation refusing the request of renewal made by the Corporation.

10. In such view of the matter, the Corporation was refused any relief by learned Single Judge. The learned Single Judge while dismissing the Writ Petition considered all the legal submissions, decisions and appreciated the factual position and has come to the right conclusion.

11. In the Appeal before us, the learned Counsel reiterated his submissions. However, this Court is firmly of the view that the appellant herein is not entitled to any relief and there is no infirmity in the order passed by the learned Single Judge and, therefore, the present Appeal is completely devoid of merits and substance, and, therefore the same is dismissed. In the circumstances, there shall be no order as to costs. Consequently, connected CMP is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

jv

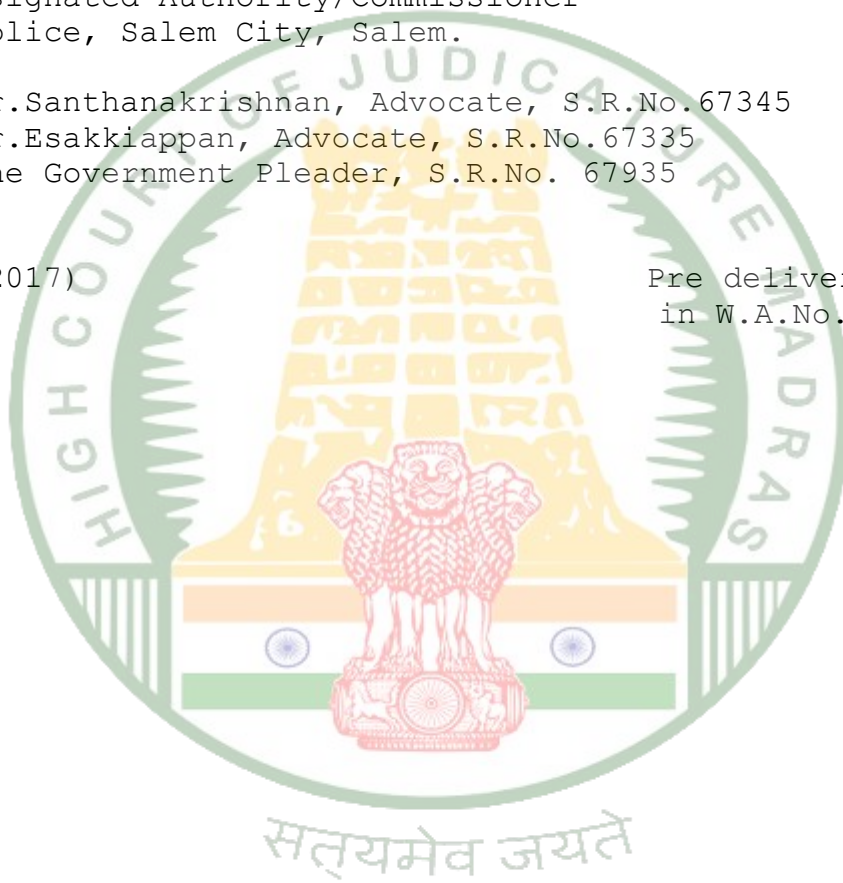
To

- 1 The Additional Director General of Police,
(Law and Order), Post Box No.601
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- 2 The Director General of Police,
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of Police, Salem City, Salem.

+1cc to Mr.Santhanakrishnan, Advocate, S.R.No.67345
+2cc to Mr.Esakkiappan, Advocate, S.R.No.67335
+1cc to the Government Pleader, S.R.No. 67935

PVS (CO)
Rs (12/01/2017)

Pre delivery Judgment
in W.A.No.988 of 2016



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