

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2016

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.836 of 2016

M.Mariammal

... Petitioner

Vs.

1. Hindustan Petroleum Corporation Ltd,
rep by its Director,
Petroleum House,
17, Jamshedji Tata Road,
Mumbai-400020.

2.The Senior Regional Manager
Petroleum Corporation Limited
Coimbatore Regional Office,
No.18/3, Big Bazaar Street,
Coimbatore - 641 001.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the second respondent herein to consider the representation of the petitioner dated 13.10.2015 and cooperate with the petitioner to cancel the lease agreement No.383/2001 dated 21.06.2001, registered in Sub Registrar Office at Barur in Dharmapuri District.

For Petitioner : Mr.D.Muthukumar

For Respondents : Mr.M.Vijayan
for M/s.King and partridge.

ORDER

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with the present Writ Petition seeking for issuance of Mandamus to direct the second respondent to consider the representation of the petitioner dated 13.10.2015 and cooperate with the petitioner to cancel the

lease agreement No.383/2001 dated 21.06.2001, registered in Sub Registrar Office at Barur in Dharmapuri District.

3. In the year 2000, the petitioner applied for retail outlet dealership for selling petroleum products in Kambainallur village, pursuant to the application submitted by the petitioner he was called for interview. Subsequently, the respondents issued letter of intent on 12.12.2000; thereafter, the petitioner and the respondents entered into a dealership agreement on 31.03.2001. As per the terms of the said agreement, the petitioner has to identify the place to set up a retail outlet. The petitioner identified her own land in S.No.255 admeasuring 62 cents in Kambainallur village and the said land was accepted and approved by the respondents. Thereafter, the petitioner and the respondents entered into lease agreement with regard to the above mentioned site for a period of thirty years and the respondents agreed to pay a sum of Rs.500/-p.m. as rent. The said lease agreement was registered in the office of the Sub Registrar at Barur in Dharmapuri District vide document No.383/2001 dated 21.06.2001.

4. After completing all the formalities, the petitioner started to run a retail outlet in the above said premises at Kambainallur village. Whiles, during November 2007, the retail outlet dealership was terminated by the respondent on certain allegations.

5. Thereafter, the petitioner filed WP.No.4517 of 2010 to get a regular dealership and the writ petition was disposed of, but the petitioner was not provided with a retail dealership. Again, the petitioner filed another writ petition in WP.No.90778 of 2010, in which the petitioner challenged the order of retail dealership termination and the said writ petition was disposed of on 26.03.2014 directing the petitioner to invoke the arbitration clause in the order of cancellation.

6. Now the said premises was not used by the respondents, the very purpose of execution of lease agreement is also not in existence and the petitioner have not encashed the rental cheques from 2012 onwards. The respondents have also unilaterally altered the terms of the lease agreement. The petitioner intends to develop the said property and thereby decided to determine the lease and communicated the same to the second respondent by way of letter dated 17.11.2014.

7. The second respondent issued a reply dated 18.11.2014, stating that the petitioner cannot determine the lease because they have not violated any of the conditions mentioned in the lease deed. Infact, after termination of lease the petitioner has taken physical possession of the property on 30.01.2015 and

the same was informed to the second respondent by way of register letter dated 13.10.2015 and requested the second respondent to cooperate with the petitioner to register the cancellation deed. The said letter was received by the second respondent and the second respondent has not come forward to execute the cancellation deed. Hence, the petitioner filed the present writ petition.

8.Though, the petitioner has sought for positive direction to direct the second respondent to cooperate with the petitioner for cancellation of lease agreement dated 21.06.2001. I am not inclined to give any positive direction and this Court is not conducting any rowing enquiry on factual aspects of the case. But, this Court directs the second respondent to consider the representation of the petitioner dated 13.10.2015, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner as well as to other necessary parties, if any. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner.

9.The writ petition is disposed of accordingly. No costs.

tsh

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Director,
Hindustan Petroleum Corporation Ltd,
Petroleum House,
17, Jamshedji Tata Road,
Mumbai-400020.

2.The Senior Regional Manager
Hindustan Petroleum Corporation Limited
Coimbatore Regional Office,
No.18/3, Big Bazaar Street,
Coimbatore - 641 001.

+ 1 cc to Mr.D.Muthukumar, Advocate Sr 21196
+ 1 cc to M/s.King and Partridge, Advocate Sr 21432

KR/22/4/16

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