



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:03.08.2016

CORAM

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

Writ Petition (MD). No.12728 of 2016

A.Adhavan

... Petitioner

Vs.

1.The Territory Manager,
Bharat Petroleum Corporation Limited,
Pasumalai,37, TPKK Road,
Madurai District.

2.The Inspector of Police,
C2 Police Station,
Subramaniapuram,
Madurai District.

... Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to permit the petitioner to operate his business as represented by the petitioner in his representation dated 13/7/2016.

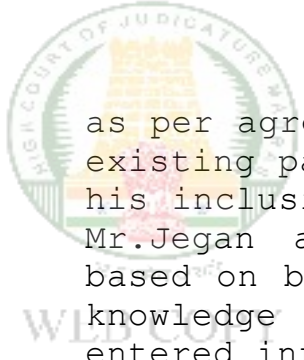
For Petitioner	:Mrs.Chamundi Bose
For Respondents	:Mr.S.Natesh Raaja for R-1
	Mr.S.Chandrasekar for R-2
	Govt. Advocate

O R D E R

Heard both sides.

2.Counter of the first respondent is filed. No counter of the second respondent is filed.

3. According to the petitioner, he is the dealer of Bharat Petroleum and a partner to M/s.Lakshmi Agencies. As a matter of fact, the original partners of M/s.Lakshmi Agencies are one Sivalingam and one Sankaralingam. It appears that the reconstitution of Dealership of M/s.Lakshmi Agencies, CC 156292 was made with effect from 01.07.2016. Indeed, the petitioner was inducted as a partner with 33% share. He was made as a partner,



as per agreement dated 30.03.2007 owing to financial crises of the existing partners. The stand of the petitioner is that earlier to his inclusion in the Agency, there were some transactions with one Mr.Jegan and old partners Mr.Shankaralingam and Mr.Sivalingam, based on bonafide interest in operating the station and having no knowledge of the feud between the parties, the petitioner had entered into the said dealership.

4. The version projected on the side of the petitioner is that based on the agreement, the petitioner loaded 8kl MS (petrol) and 4kl HSD (Diesel) to the total value of Rs.7,18,748.00/- on 05.07.2016. The first respondent/Corporation had issued an invoice in favour of the petitioner in bearing No.1349931691. There is a dispute among the partners and the aforesaid Jegan. In fact, the second respondent/Police had referred the issue to the Revenue Divisional Officer as 'group clash' under Section 145 of Cr.P.C. In the said clash, the petitioner is not a party. Yet, his case is that the second respondent/Inspector of Police, C2 Police Station, Madurai, is preventing him from operating the Petrol Station.

5. At this stage, the Learned Counsel for the Petitioner vehemently contends that the petitioner had invested a huge amount of Rs.7,18,748/- as deposit and loaded fuel for the aforesaid amount. Further, the petroleum product, which is of evaporating nature is likely to cause loss to the extent of 0.59% on petrol and 0.015% on diesel. As such, 47.2 litres is likely to evaporate in a day and likewise the diesel. Based on this ratio, in 160 days, he will loose the entire stock. The categorical stand of the petitioner is that he was wrongly included in the 'group clash' by the second respondent, based on his partnership with the aforesaid partners of M/s.Lakshmi Agencies and from 05.07.2016 onwards, he is not able to do his business and therefore, he is incurring a loss. As such, he made a representation before the first respondent on 13.07.2016, which is kept pending. Hence, the petitioner has filed the present writ petition praying for passing of an order to direct the first respondent to permit him to operate his business, as represented by him in his representation dated 13.07.2016.

6. In response, the Learned Counsel for the first respondent/Corporation submits that M/s.Lakshmi Agencies is its dealer running a retail outlet at Vasantha Nagar, Madurai. In fact, DPSL agreement was initially signed by Mr.L.Sankaralingam and his brother Mr.L.Sivalingam, who are the partners of M/S.Lakshmi Agencies. While that be the facts situation, the petitioner along with existing partners made a joint request to the first respondent to approve the reconstitution of the service centre. Since the petitioner along with existing partners made a joint request, on behalf of the Bharat Petroleum Corporation, reconstitution of



the firm M/s.Lakshmi Agencies was approved and necessary agreements were also executed on behalf of the present partners.

7. The Learned Counsel for the first respondent, by expatiating the submissions, proceeds to take a stand that the first respondent/Corporation is not aware about the money transactions between L.Sankaralingam, L.Sivalingam and one Jegajivanram, till a legal notice was received by it on 04.07.2016, for which the Corporation, sent a detailed reply on 25.07.2016. In short, only from the receipt of legal notice, the purported money transactions came to light. Furthermore, as per the records of the first respondent, M/s.Lakshmi Agencies is its dealer and the petitioner, L.Sankaralingam and L.Sivalingam are the partners. In fact, Jegajivanram has no right to claim dealership.

8.The Learned Counsel for the first respondent submits that the Revenue Divisional Officer, Madurai had initiated proceedings against the partners of M/s.Lakshmi Agencies and Jegajivanram. In fact, the first respondent had supplied Petroleum products on payment of the value of the products to the dealer and it is for the dealer (petitioner) to run the retail outlet peacefully. Since the Revenue Divisional Officer, Madurai had initiated legal proceedings under Section 145 of Cr.P.C in regard to running of retail outlet, the first respondent cannot consider the representation of the petitioner dated 13.07.2016, as the statutory authorities are seized of the matter and pending before them.

9.The Learned Government Advocate for the second respondent/Police submits that the 145 Cr.P.C proceedings initiated by the Revenue Authority was ultimately dismissed, as per the proceedings of the Revenue Divisional Officer, Madurai in Moo.Mu.No.3465/2016/M, dated 20.07.2016 and further, in respect of the land, where the title is in dispute, the parties were directed to approach the Civil Court and to seek redressal of their grievance.

10. On a careful consideration of respective contentions and also this Court, bearing in mind of an important fact that the Revenue Divisional Officer, Madurai, in his proceedings in Moo.Mu.No.3465/2016/M, dated 20.07.2016, had ultimately stated that the case under Section 145 Cr.P.C was dismissed and also this Court, keeping in mind yet another fact that the parties were directed to approach the Civil Court in respect of the title dispute in question, at this stage, comes to a consequent conclusion that the prayer sought for by the writ petitioner viz., for passing of an order by this Court to direct the respondents to operate his business, as represented by him in his representation, dated 13.07.2016, based on the facts and circumstances of the case, cannot be acceded to in furtherance of



substantial cause of Justice. Consequently, the writ petition fails.

11. In fine, the writ petition is dismissed leaving the parties to bear their own costs. It is abundantly made clear that the dismissal of the present writ petition by this Court will not preclude the petitioner to approach the competent Civil Court for redressal of his grievance in the manner known to Law and in accordance with Law. Further, if the petitioner approaches the Civil forum, then, it is open to him to raise all factual and legal pleas and to proceed further.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

VS

To

The Inspector of Police, C2 Police Station,
Subramaniapuram, Madurai District.

+1CC to Spl.Government Advocate Sr.No.41560

+1CC to Mr.S.Natesh Raja, Advocate Sr.No.41564

+1CC to Mr.Chamundi, Bose, Advocate Sr.No.41622

SMA/KP/11.8.16-4p-5c

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