

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.40522 of 2016 &
W.M.P.No.34548 of 2016

Vasanthi alias Gowri

... Petitioner

Vs.

1. The Chief Manager,
Bharat Petroleum Corporation Limited,
No.1, Ranganathan Gardens,
11th Main Road,
Anna Nagar,
Chennai - 600 040.
2. The Territory Manager (Retail),
Trichy Retail Territory,
Bharath Petroleum Corporation Limited,
Raj Towers, 1st Floor,
Kalai Nagar, Pass Road,
Trichy - 620 002.
3. The Sales Officer,
Bharath Petroleum Corporation Limited,
Off. Ranjit Petrol Bunk, BCR Road,
Lawspet,
Puducherry - 605 008.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, forbearing the respondents from creating encumbrance in favour of third parties in respect of the retail outlet by allotting Adhoc dealership either on temporary or on permanent basis situated in R.S. No.128/3, forming part of Survey Nos.528, 529, 530, 531, 532, 534, 538, (now New Survey No.128/3/A/1/C) measuring a total extent of 00.09.11 Ares equivalent to 9792 square feet situated in Madagadipet Village, Pondy-Villupuram Main Road, (N.H. 45 A) Pondicherry District-605 107.

For Petitioner : Mr.T.Seliapandian
For Respondent : Ms.P.T.Asha
for M/s.Sarvabhauman Asso.

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus forbearing the respondents from creating encumbrance in favour of third parties in respect of Adhoc dealership either on temporary or permanent basis situated in R.S.Nos.528, 529, 530, 531, 532, 534, 538, now New Survey Nos.128/3/A/1/C measuring a total extent of 00.09.11 Ares equivalent to 9792 situated in Madagadipet Village, Villupuram Main Road, (N.H. 45 A) Pondicherry District - 605 107.

2. It is not in dispute that the petitioner is the owner of the above said land which was leased out to the respondents, for establishing the Petrol bunk and a lease agreement was also entered between the parties on 05.10.1995 for a period of 20 years commencing from 01.10.1995 to 30.09.2015 as per clause 4 (1) of the lease deed. The lease period can be renewed for a further period of 10 years, after expiration of initial lease period, at the monthly rent and terms to be mutually agreed between the parties. The initial period of 20 years came to an end on 30.09.2015.

3. It is brought to the notice of the Court that to specifically enforce the agreement dated 05.10.1995, the respondents filed a suit in O.S.No.2893 of 2016 on the file of II Additional District Munisif Court, Pondicherry, for specific performance. Subsequently, the petitioner also filed a suit in O.S.No.771 of 2016 for recovery of possession. In both the suits, the plaintiffs filed an application for interim injunction. However, the Trial Court had ordered notice in both the applications.

4. Since, the prayer sought for in the writ petition was already the subject matter in the Civil suit, I am of the considered view that both the parties can work out their remedy before the civil court. Since the suit are pending before the Civil suit, I do not find any reason to entertain the present writ petition. Accordingly, the writ petition is dismissed. The parties are at liberty to let in oral and documentary

evidences before the Trial Court to establish their respective cases. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

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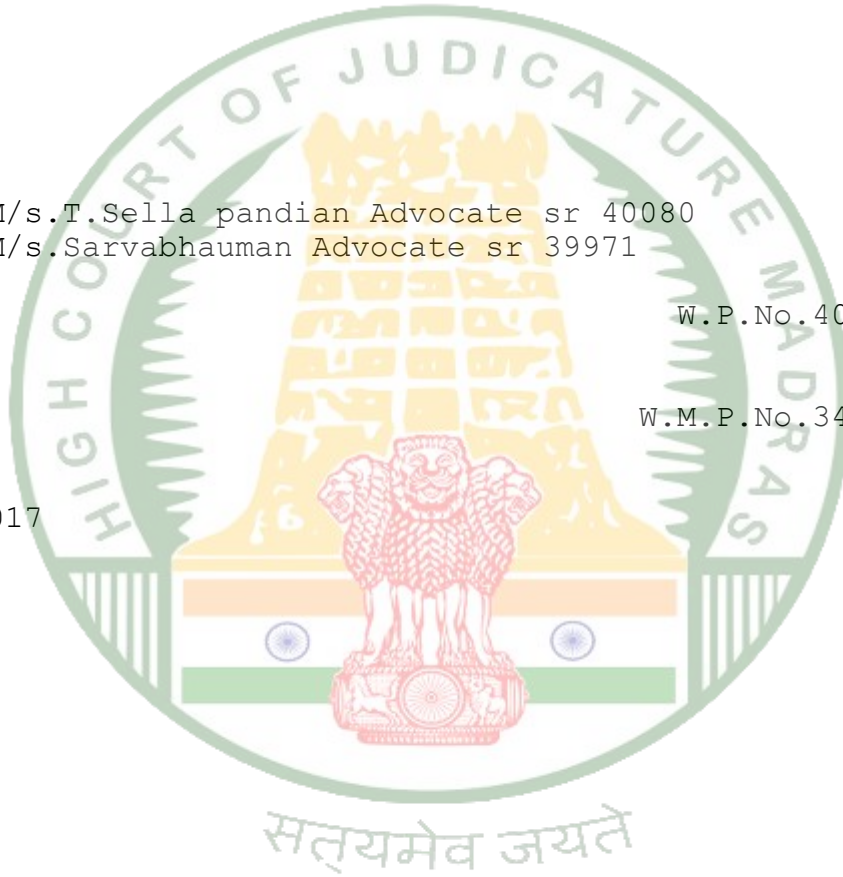
Sub Assistant Registrar

AT/Rj

+1 cc to M/s.T.Sella pandian Advocate sr 40080
+1 cc to M/s.Sarvabhauman Advocate sr 39971

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