



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.01.2018

PRONOUNCED ON : 02.02.2018

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THE HONOURABLE MR.JUSTICE T.RAVINDRAN

REV.APLC (MD) No.220 of 2017

in

CRP (MD) No.1336 of 2017 and CMP (MD) No.9571 of 2017

Bharat Petroleum Corporation Limited,
Represented by its Territory Manager,
(Retail) Tirunelveli, B.G.Good Shed Road,
Thachanalloor,
Tiruneveli 627 358

.. Petitioner

Vs.

The Commissioner cum Estate Officer,
Nagerkoil Municipality,
Nager Koil,
Kanyakumari District.

.. Respondent

Prayer : Review Application has been filed under Section 114 and order 47 Rule 1 of Civil Procedure Code against the order dated 12.09.2017 passed in C.R.P. (PD) (MD) No.1336 of 2017.

Prayer in CRP (MD). 1336/ 2017 :

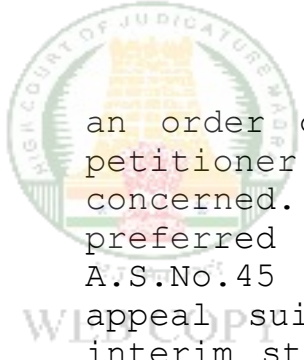
Civil Revision Petitions filed under Article 227 of the Constitution India, to call for the records relating to the order dated 17.06.2017 and 07.07.2017 respectively passed in IA.No.119/2017 in AS.NO.45/2017 on the file of District Judge, Kanyakumari District at Nagercoil.

For the Review Applicant : Mr.S.Natesh Raja

ORDER

This Review Application is directed against the order dated 12.09.2017 passed in CRP (PD) (MD) No.1336 of 2017.

2. It is found that proceedings were initiated against the review petitioner under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975 (hereinafter referred to as the Act) followed by the issuance of notice under the said Act, to show cause as to why it should not be evicted. It is found that



an order of eviction has come to be passed against the review petitioner granting fourteen days time to vacate the property concerned. Impugning the same, the review petitioner has preferred the statutory appeal before the Appellate Authority in A.S.No.45 of 2017. It is further found that pending the above appeal suit proceedings, it had also moved an application for interim stay of the order of eviction passed against it till the disposal of the appeal.

3. Initially, it is found that the Appellate Authority had granted interim stay as the respondent had sought time for filing counter in the said application preferred by the petitioner. It is also noted that the appeal preferred by the petitioner had been presented in the wrong forum and thereafter, the proceedings were sent to the correct forum and accordingly, when the petitioner insisted for the stay before the Appellate Authority, which matter had come to be seized of by the Appellate Authority only on 17.06.2017 and as at that point of time, the respondent sought time for filing counter, an interim order of stay was granted by the Appellate Authority till counter is filed by the respondent and accordingly, posted the matter for due enquiry on 27.06.2017. In the meanwhile, the respondent had taken possession of the property from the petitioner following the order of eviction on 02.06.2017 in the manner known to law. Thereafter, when the same had been pointed out to it by the respondent by way of filing counter and further considering the materials placed on record by the respective parties, the Appellate Authority finding that the respondent had taken the due process for obtaining the possession of the property concerned on 02.06.2017 itself, even before the Appellate Authority had been seized of the matter on 17.06.2017 and further holding that the petitioner had failed to establish that it continued to be in possession of the property concerned as put forth by it, dismissed the stay application and accordingly, vacated the order of interim stay already granted by it.

4. Impugning the dismissal of the stay application, the petitioner had preferred CRP(PD) (MD) No.1336 of 2017 and impugning order of interim stay granted by the Appellate Authority as above discussed, the Respondent had preferred CRP (PD) (MD) No.1202 of 2017. Accordingly, this Court, after considering the rival contentions put forth by the respective parties, finding that the respondent had established a prima facie that it had taken possession of the property from the petitioner pursuant to the order of eviction in the manner known to law and also noting that the petitioner had failed to establish that it continued to be possession of property concerned even after its dispossession by the respondent as per law and accordingly, noting that the

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order of Appellate Authority in dismissing the stay application and also the canvass made by the petitioner impugning the original



show cause notice etc., are to be projected during the course of appeal proceedings, holding that the petitioner had failed to establish that the respondent had taken possession of the property concerned illegally and further holding that the respondent had taken possession of the property only after the lapse of 14 days time granted in favour of the petitioner and further holding that the petitioner has not placed any material worth acceptance to hold that it continued to remain in the possession of the property concerned, accordingly, dismissed the Civil Revision Petition preferred by the petitioner and resultantly, allowed the Civil Revision Petition preferred by the respondent.

5. Seeking review of the above said order, the present Review Petition has been laid.

6. The points, which had already been canvassed before the Court when the Civil Revision Petitions were taken up for consideration are only reiterated in this review petition i.e. that the respondents had not taken possession of the property in the manner known to law and hence, the order passed in the Civil Revision Petition requires to be reviewed. Further, according to the review petitioner, there was no need to entertain the Civil Revision Petition preferred by the respondent and hence, the order requires to be reviewed. Further, it is argued that no order of eviction had been passed as against the petitioner and hence, the Court, while disposing of the Civil Revision Petitions, had erroneously determined that the order of eviction has been passed against the petitioner. However, all the above said points are found to have been canvassed by the review petitioner, when the Civil Revision Petitions above mentioned, were taken up for consideration and all those points were duly considered by the Court and negatived. In such view of the matter, when the Civil Revision Petitions were taken up for consideration, it has not been established as such, the above said materials are not within the knowledge of the petitioner or could not be produced by it and when the points urged by the review petitioner are found to be not based on any mistake or error apparent on the face of the record or the review petition requires to be accepted for any other sufficient cause, it is found that based on submissions already canvassed by the petitioner, it cannot be permitted to seek the review of the order by a repetition of the contentions already negatived by this court while concluding the adjudication concerned. It is seen that the review petition cannot be maintained when the same relief sought at the time of arguing the main matter had been negatived. The principles of law outlined in the decision of the Apex Court reported in (2013) 8 SCC 320 (Kamlesh Verma Vs. Mayawathi and others) are taken into consideration.

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7. In the light of the above position, it is found that the petitioner has not made out any valid case to review the order in



question. Resultantly, the Review Petition is dismissed.

Sd/-
Assistant Registrar(W)

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/True Copy/

Sub Assistant Registrar

To

The Commissioner cum Estate Officer,
Nagerkoil Municipality,
Nager Koil,
Kanyakumari District.

Adl
AE/RSK/SAR4/28.04.2018/4P/2C

order made in
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in
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and CMP (MD) No.9571 of 2017
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