

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

WRIT APPEAL NO.434 OF 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in WP.No.40148 of 2016 dated 22.03.2017.

The dealership agreement with the petitioner, a Petroleum Retail Outlet dealer, was terminated by proceedings dated 29.06.2012 questioning which the appellant-writ petitioner invoked the jurisdiction of this Court. He also preferred an appeal, thereafter, before the appellate authority. While this Court initially granted an order of *status quo*, the Writ Petition itself was disposed of, by the order under appeal, recording the assurance of Sri O.Manohar Reddy, learned Standing Counsel, that, in the event of their succeeding in the appeal, the petitioner would be restored to the position obtaining as on the date of the order on as is where is basis. The Learned Single Judge, while directing the appellate authority to dispose of the appeal within 60 days from the date of receipt of a copy of the order after giving due opportunity to the petitioner, made it clear that, if the appeal of the petitioner were to be allowed, the respondents should restore the Retail Outlet to the petitioner without delay.

Sri Zakir Ali Danish, learned counsel for the appellant, would submit that no prejudice would be caused to any of the parties if the order of *status quo* was directed to be continued till the disposal of the appeal by the appellate authority, for, if the respondents were to demolish the existing tank and take away their machinery, needless expenditure would be required to be incurred in re-constructing the tank, and in re-erection of the machinery, in case the appeal were to be allowed.

Sri O. Manohar Reddy, learned Standing Counsel on instructions, would submit that the dealership agreement of the appellant-writ petitioner was terminated because 3616 litres of petrol was found adulterated having been mixed with Bio-Diesel oil; and the Corporation had undertaken before the learned Single Judge that, in the event the appeal preferred by the petitioner was allowed, the petitioner would be restored to the position obtaining as on the date of the order on an as is where is basis.

The appellant-writ petitioner's interests are adequately safeguarded by the order under appeal as, if the appeal were to be allowed later, they would be entitled to be restored to the same position they were in as on the date of the order i.e., 22.03.2017 when the Writ Petition was disposed of. In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order passed by the learned Single Judge suffers from a patent illegality. We find no such infirmity in the exercise of discretion by the learned Single Judge as, in the facts and circumstances of the present case, the appellant-writ petitioner's interests are adequately safeguarded. We find no

reason, therefore, to interfere with the order of the learned Single Judge.

The Writ Appeal fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

6th April 2017
RRB

