

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Appeal No.838 of 2017

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

Heard Sri R.Raghuandan, learned Senior Counsel appearing on behalf of the appellants and Sri A.Sudershan Reddy, learned Senior Counsel appearing on behalf of the respondents. This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.36794 of 2016 dated 30.01.2017. Both W.P.Nos.18923 of 2009 and 36794 of 2016 were heard together and a common order was passed by the Learned Single Judge on 30.01.2017.

Facts, to the limited extent necessary, are that the 2nd petitioner in W.P.No.36794 of 2016 is a partner in the 1st petitioner-partnership firm in whose favour the appellants herein had granted a gas agency. On the 2nd respondent herein (2nd petitioner in the writ petition) having been convicted for an offence under Section 302 I.P.C, the appellants herein terminated the agency since its guidelines stipulated that, if any partner of the partnership firm is convicted in a Criminal case, the dealership is liable to be terminated.

Against the order of conviction, the 2nd respondent herein preferred an appeal and was acquitted. Consequently, he invoked the jurisdiction of this Court by way of W.P.No.36794 of 2016 contending that the dealership should be restored; and since the earlier order, terminating the dealership, was valid when it was passed, the only consequence of acquittal, in appeal would be the restoration of dealership.

Sri R. Raghuandan, Learned Senior Counsel appearing on behalf of the appellants would submit that, as the guidelines of the appellants prescribe fulfilment of certain conditions for restoration of dealership, and as these conditions have not been fulfilled, the Learned Single Judge had erred in directing the appellants to restore the dealership in favour of the 1st respondent-firm. It is not in dispute that the only ground, on

which the dealership of the 1st respondent-firm was terminated, is that one of its partners was convicted in a Criminal Case for the offence under Section 302 I.P.C. This order of conviction was set aside in appeal and, consequent thereto, the original order of conviction ceased to remain in force. The very basis of the earlier order of termination of dealership no longer survives, since the order of conviction no longer exists. The appellants were, therefore, bound to put the respondents back in the place they were in, before their dealership was cancelled.

The Learned Single Judge has, in our view rightly, directed the appellants to restore the dealership which was terminated by them earlier. It is only if the basis on which the earlier order was passed is held to be valid, would the question of applying the guidelines for restoration of the terminated dealership arise. In the present case, since the sole basis for termination of the dealership is the conviction by a competent Criminal Court, which order has been set aside in appeal and the 2nd respondent herein has been acquitted, the Learned Single Judge was justified in directing restoration of dealership. In an intra-court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

Since we are dismissing the appeal on this short ground, the question whether the appellants were justified in applying the 2007 Guidelines, when the 1st respondent was granted dealership under the 1985 Guidelines, is left open to be adjudicated, if need be, in appropriate legal proceedings.

Both Sri R.Raghunandan, learned Senior Counsel appearing on behalf of the appellants and Sri A.Sudershan Reddy, learned Senior Counsel appearing on behalf of the respondents, would request this Court to specify a time frame within which the dealership should be restored. The appellants shall at the earliest, and in any event not later

than one month from today, restore the dealership of the 1st respondent herein.

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

(RAMESH RANGANATHAN, ACJ)

(ABHINAND KUMAR SHAVILI, J)

30th October, 2017
JSU



THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Appeal No.838 of 2017

Date: 30.10.2017