

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1722 of 2018
and C.M.P.No.13788 of 2018

T.Amirthavalli ... Appellant/Petitioner

-vs-

1.M/s.Indian Oil Corporation
rep.by its Chief Divisional Retail Sales Manager,
Divisional Office, Indian Oil Bhavan,
No.8/1079, Avinashi Road,
Coimbatore-18.

2.M/s.Indian Oil Corporation
rep.by its Executive Director (Sales),
G-9, Ali Yavar Jung Marg, Bandra (East),
Mumbai-400 051.

3.M/s.Indian Oil Corporation
rep.by its Executive Director (Sales),
No.139, Indian Oil Bhavan,
Nungambakkam High Road,
Nungambakkam, Chennai-600 034.

4.M/s.Indian Oil Corporation
rep.by its Assistant Manager (Sales),
Divisional Office, Indian Oil Bhavan,
No.8/1079, Avinashi Road,
Coimbatore-18.

... Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent, against
the order passed by this Court in W.P.No.10894 of 2018 dated
27.04.2018.

W.P.No.10894 of 2018:-

Writ Petition filed under Article 226 of the Constitution of
India praying for issuance of Writ of Mandamus directing the
respondents to vacate and handover the vacant possession of the
property situated in S.No.298/1B admeasuring 30,000 sq.ft

(200x150 feet) on Palladam to Tiruppur Road SH-19 Vettupattankuttai Village Naranapuram Post Palladam Taluk presently Tiruppur District and bounded North by Petitioners Land in S.No.298/1B South By land of Annapoorani Estates in S.No.298/2 East by Petitioners Land in S.No.298/1B and West By Palladam to Tiruppur Road (SH-19) to the petitioner

For Appellant :: Mr.N.G.R.Prasad for
Mr.M.Selvaraju

For Respondents :: Mr.T.R.Rajagopalan, Sr.Counsel
for Mr.Mohammed Fayaz Ali

JUDGMENT
(Made by HULUVADI G.RAMESH, J.)

The case of the appellant is that she is the absolute owner of the property situated in S.No.298/1B, admeasuring 30,000 sq.ft, on the Palladam to Tiruppur Road, SH-19, Vettupattankuttai Village, Naranapuram Post, Palladam Taluk. She entered into an agreement with the respondent Corporation on 20.12.2002 agreeing to lease the said property for a period of 15 years to run a retail outlet for the sale of petroleum products with a renewal clause to lease for another 15 years. The agreement came to an end on 26.02.2018. On the expiry of the lease period, the appellant sent a notice of termination to the respondent Corporation expressing her unwillingness to renew the lease. Since the respondents failed to vacate and hand over the land in question, the appellant filed a writ petition before this Court in W.P.No.10894 of 2018 seeking a direction to the respondents to vacate and hand over possession of the property in question. After considering the facts and circumstances of the case, the learned single Judge dismissed the writ petition by order dated 27.04.2018 holding that the writ petition cannot be entertained in view of the renewal clause in the agreement, if relied upon by the respondents, would give complex questions of fact.

2.Challenging the order passed in the writ petition, the present appeal has been filed.

3.The learned counsel for the respondent Corporation has submitted that they have filed a suit before a Civil Court praying for operating the renewal clause, as such a relief is available before the Civil Court as per law.

4.The learned counsel for the appellant has submitted that the renewal clause can be applied only if the appellant-lessor agrees for such renewal for a further period as stated in the

agreement. Since the appellant is not willing for renewal, the Corporation has to hand over the premises, once the lease period expires. To fortify his contentions, the learned counsel has relied upon the decision of this Court in G.Mohamed Thajf and another v. The Bharath Petroleum Corporation Limited and another, reported in 2001 (1) CTC 10, to state that when once the lease is terminated and / or not renewed in favour of the tenant, the tenant cannot be construed to be a tenant holding over and they can only be ranked as trespassers and in such event, none of the provisions or benefits conferred under the City Tenants Protection Act, can be extended in favour of such tenant. He also relied upon the decision of a Division Bench of this Court in the case of N.R.Vairamani v. Union of India, rep.by its Secretary, Ministry of Petroleum, New Delhi and two others, reported in 2001 (1) CTC 1, wherein the Division Bench of this Court has found that the Petroleum Corporation did not pay the admitted rent and squatted on the property of the landlord. The Division Bench, therefore, while treating the possession of the Corporation as trespass, exercised their powers conferred under Article 226 of the Constitution of India and directed the Corporation to vacate and hand over possession of the premises in question, therein without requiring the landlord to get eviction by approaching the competent Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.It appears that an agreement has been entered into between the appellant and the respondent Corporation on 20.12.2002 to lease the property in question belonging to the appellant, for a period of 15 years to run a retail outlet for the sale of petroleum products with a renewal clause to lease for another 15 years. The agreement came to an end on 26.02.2018. On the expiry of the lease period, the appellant sent a notice of termination expressing her unwillingness to renew the lease. But the respondents failed to vacate and hand over the land in question. The renewal clause can be considered only if the appellant-lessor agrees for such renewal for a further period as stated in the agreement. Since the appellant is not willing for renewal, the Corporation has to hand over the premises, once the lease period expires. Continuing to squat upon the property by the respondent Corporation only amounts to trespass. When we enquired the parties, it is stated that the rent amount presently paid to the appellant is about Rs.15,000/-.

7.However, as a matter of justice and equity, the respondent Corporation is permitted to continue in the premises in question, subject to payment of rent of Rs.75,000/- per month, instead of the present rent, for a period of one year. Within such period, the respondent Corporation shall vacate and

handover the premises to the appellant. This order is passed only to enable the respondent Corporation / lessee to find out an alternative place to carry on its business.

8.The writ appeal is disposed of accordingly. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Chief Divisional Retail Sales Manager,
Indian Oil Corporation,
Divisional Office, Indian Oil Bhavan,
No.8/1079, Avinashi Road,
Coimbatore-18.
2. The Executive Director (Sales),
Indian Oil Corporation,
G-9, Ali Yavar Jung Marg, Bandra (East),
Mumbai-400 051.
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No.139, Indian Oil Bhavan,
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4. The Assistant Manager (Sales),
Indian Oil Corporation
Divisional Office, Indian Oil Bhavan,
No.8/1079, Avinashi Road,
Coimbatore-18.

+1cc to Mr.M.Selvaraju, Advocate, S.R.No.66436

+1cc to Mr.Mohammed Fayaz Ali, Advocate, S.R.No.65935

W.A.No.1722 of 2018
and
C.M.P.No.13788 of 2018

NMI (CO)
CS/30/10/2018