

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.933 of 2017 & CMP No.12956 of 2017
& W.A.No.934 of 2017 & CMP No.12957 of 2017

M/s.Woods India Negotiations,
Rep. By its Managing Partner,
M.Sobitha Kumar,
S/o. Late V.Messiah Dhas,
No.S1, S2, Loka Aloka Apartments,
566/920, P.H. Road,
Arumbakkam, Chennai 600 106.

.... Appellant
in both the Appeals

versus

1. Superintending Engineer
Chennai EDC/North,
No.144, Anna Salai,
Chennai 600 002.
2. The Regional Manager,
The Hindustan Petroleum Ltd.,
"Petro Bhavan", 2nd Floor,
No.82, T.T.K. Road,
Alwarpet, Chennai 600 018.
3. Executive Engineer, EB,
No.16, Park Street, सत्यमेव जयते
Alwarthirunagar,
Chennai 600 087.
4. Assistant Executive Engineer, EB,
No.16, Park Street,
Alwarthirunagar, Chennai 600 087.
5. Assistant Engineer, EB,
No.16, Park Street,
Alwarthirunagar, Chennai 600 087.

6. M/s.J.K.Petroleums,
Rep. By its Sole Proprietrix,
Mrs.J.Kuzhandai Kani,
W/o. Joseph, No.199-200,
Choudry Nagar, Valasaravakkam,
Chennai 600 087.

7. Sri Murugan Agencies - ADHOC
Dealer of Hindustan Petroleum Corporation Ltd.,
No.442/4, Arcot Road,
Porur, Chennai 600 116.

... Respondents
in WA No.933 of 2017

1. Hindustan Petroleum Corporation Limited,
Rep. By its Senior Regional Manager,
Mr.G.V.B. Sitaramaiah
"Petro Bhavan", 2nd Floor,
No.82, T.T.K. Road,
Alwarpet, Chennai 600 018.

2. Superintending Engineer
Chennai EDC/North, TANGEDCO
No.144, Anna Salai,
Chennai 600 002.

3. Executive Engineer, EB,
TANGEDCO
No.16, Park Street,
Alwarthirunagar,
Chennai 600 087.

4. Assistant Executive Engineer,
TANGEDCO
No.16, Park Street,
Alwarthirunagar, Chennai 600 087.

5. Assistant Engineer,
TANGEDCO
No.16, Park Street,
Alwarthirunagar, Chennai 600 087.

6. M/s.J.K.Petroleums,
Rep. By its Sole Proprietrix,
Mrs.J.Kuzhandai Kani,
W/o. Joseph, No.199-200,
Choudry Nagar, Valasaravakkam,
Chennai 600 087.

... Respondents
in WA No.934 of 2017

Appeals filed against the orders passed by this Court dated 19.06.2017 passed in WMP No.34908 of 2016 in WP No.40939 of 2016 and WMP No.1369 of 2017 in WP No.1451 of 2017.

Prayer in WMP No.34908 of 2016 in WP No.40939 of 2016 and WMP No.1369 of 2017 in WP No.1451 of 2017:-

(i) issue a writ of mandamus or any other appropriate writ or order or direction in nature of writ directing the Respondents 2 to 5 to restore the electricity connection to S.C.No.09240003758 in the retail outlet situated at Door No.442/4 Arcot Road Maduravoyal Village Porur Chennai 600 116 (in WP No.1451 of 2017)

(ii) issue Interim Direction directing the Respondents 2 to 5 to supply electricity for the connection to S.C.No.09240003758 in the retail outlet situated at Door No.442/4 Arcot Road Maduravoyal Village Porur Chennai 600 116 (in WMP No.1369 of 2017)

(iii) issue a writ of mandamus or any other appropriate writ or order or direction Forbearing first, third, fourth and fifth respondents from giving electricity supply in electricity connection No.09240003758 for running a petroleum outlet on adhoc basis to the seventh respondent in Survey No.442/4 measuring an extent of 7680 sq. ft. at Door No.442/4 Arcot Road Ambattur Taluk Maduravoyal Village Porur Chennai-600 116 (in WP No.40939 of 2016)

(iv) pass an interim injunction restraining first, third, fourth and fifth respondents from giving electricity supply in electricity connection No.09240003758 for running a petroleum outlet on adhoc basis to the seventh respondent in Survey No.442/4, measuring an extent of 768 sq.ft. at Door NO.442/4, Arcot Road, Ambattur Taluk, Maduravoyal Village, Porur, Chennai-600 116 (in WMP.34908 of 2016 in WP.40939 of 2016) pending WP.Nos.1451 of 2017 and 40939 of 2016 respectively.

For Appellant : Mr. David Tyagaraj
(in all the Appeals)

For Respondents : Mr. M.Vijayan
for M/s.King and Patridge for R2

Mr.S.K.Rameshwar for RR 1,3 to 5

Mr.Sandeep S.Shah
for M/s. Shah & Shah for R6

C O M M O N J U D G M E N T
(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The appellant challenges the interim orders made in WMP Nos. 34908 of 2016 and 1369 of 2017 in WP Nos.40939 of 2016 and 1451 of 2017. WP No.1451 of 2017 was filed by the 1st respondent in Writ Appeal No.934 of 2017, viz. Hindustan Petroleum Corporation seeking issuance of a Writ of Mandamus directing the respondents 2 to 5, viz. the Superintendent Engineer, TANGEDCO, Chennai and others, to restore the Electricity service connection in service connection No.09240003758 for the retail outlet situate at Door No.442/4 Arcot Road, Maduravoyal Village, Cheenai 600 116.

2. In the said writ petition, the 1st respondent herein had also sought for interim directions for supply of electricity. WP No.40939 of 2016 was filed by the appellant herein seeking a Writ of Mandamus forbearing the Superintendent Engineer, TANGEDCO and others, from restoring electricity supply to the Electricity Service Connection bearing No.09240003758 for running a petroleum outlet on adhoc basis at door No.442/4, Arcot Road, Maduravoyal Village, Chennai 116. In the said writ petition the appellant as petitioner also sought for the interim injunction restraining the respondents from restoring electricity supply. The two Writ Petitions with conflicting prayers came to be filed under the following circumstances.

3. The appellant in these Appeals is the owner of the property in question had entered into the Lease Agreement with one Mrs.J.Kuzhandai Kani, proprietor of J.K. Petroleums, the 6th respondent in these appeals, under a lease deed dated 15.09.2000 for a period of 20 years i.e., from 15.09.2000 to 14.09.2019. The said lease deed also specifically authorized the lessee, viz. the 6th respondent herein to sublet the premises to Hindustan Petroleum Corporation for the purpose of running retail outlet. It is not in dispute that the 6th respondent herein had exercising his power under the Lease Deed sublet the premises to the Hindustan Petroleum Corporation. The Hindustan Petroleum Corporation had on 08.09.2014 terminated the dealership of the 6th respondent herein. Thereafter, the Hindustan Petroleum Corporation, as a sub lessee, had appointed the 7th respondent as the adhoc dealer to carry on the operations of the retail outlet. It is claimed that the appellant had also terminated the tenancy of the 6th respondent by notice dated 03.01.2015. The 6th respondent had sent a reply dated 02.02.2015 to the said notice. The appellant had also filed the O.S.No.64 of 2015 on the file of the Sub Court, Poonamallee, seeking delivery of possession of the property against the 6th respondent

and the Hindustan Petroleum Corporation. The said suit is pending. It is at this juncture, the above Writ Petitions came to be filed seeking conflicting reliefs of Mandamus forbearing the respondents 1 to 5 from providing service connection and the other by the 1st respondent the Hindustan Petroleum Corporation seeking a Writ of Mandamus directing the respondents 2 to 5 to provide electricity service connection.

4. The said miscellaneous petitions were disposed of by the learned Single Judge by a common order dated 19.06.2017, in and by which, the learned Single Judge while directing the respondents 2 to 5 to restore the service connection on payment of requisite charges directed the suit in OS No.64 of 2015 to be disposed of within a period of six months from the date of receipt of a copy of this order.

5. Aggrieved by the said direction, the appellant has come forward with these intra Court Appeals.

6. We have heard Mr.David Tyagaraj, learned counsel appearing for the appellant, Mr.M.Vijayan, learned counsel appearing for M/s.King and Patridge, for the 1st respondent, Mr.S.K.Rameshwar, learned counsel appearing for the respondents 2 to 5 and Mr.Sandeep S.Shah, learned counsel appearing for M/s. Shah & Shah, for the 6th respondent.

7. After some arguments the learned counsel for the parties agreed that the disposal of the suit in OS No.64 of 2015 would put an end to the entire controversy. Mr.David Tyagaraj, learned counsel appearing for the appellant, would however claim that the sub lessee, viz. the Hindustan Petroleum Corporation has no authority to put a 3rd party in possession of the property to run the Petrol Bunk. Since the appeals are against the interim orders, we do not propose to go into the merits of the claim. As on date the lease granted by the appellant in favour of the 6th respondent is in force. The validity of the termination of the lease has to be gone into in the suit filed by the appellant against the 1st respondent and the 6th respondent. The Petrol Bunk is being run even as of today since reconnection has been granted pursuant to the orders of the learned Single Judge. It is grievance of Mr.David Tyagaraj that the 6th respondent as well as the 1st respondent have not paid the rents due. Mr.Vijayan, learned counsel appearing for the 1st respondent would submit that they had tendered the rents to the appellant but the appellant refused to receive the same.

8. In the light of the controversy and the grievances expressed above by all the counsels, we deem it fit that these appeals are disposed of with the following directions.

(i) The 1st respondent the Hindustan Petroleum Corporation is directed to pay all arrears of rent up to date within a period of 8 weeks from the date of receipt of a copy of this order.

(ii) It is also made clear that the future rents shall be paid month on month, as per the conditions in the Lease Deed dated 15.09.2000.

(iii) It is also made clear that the payment of rent paid by the 1st respondent and the receipt the same by the appellant is without prejudice to the contentions of the respective parties in the Civil Suit, as the same is done under the orders of this Court.

9. The 1st respondent shall execute an Indemnity Bond as required by the Electricity Board. The Sub Court, Poonamallee is directed to dispose of the suit in OS No.64 of 2015, within a period of 3 months from the date of receipt of copy of this order and report such disposal to this Court without fail. Parties are directed to cooperate with the learned Sub Judge Poonamallee in proceeding with the suit within a time frame fixed above.

10. The Writ Appeal is disposed of with the above direction. However in the circumstances there will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jv

To

1. Superintending Engineer
Chennai EDC/North,
No.144, Anna Salai,
Chennai 600 002.
2. Executive Engineer, EB,
TANGEDCO, No.16, Park Street,
Alwarthirunagar, Chennai 600 087.

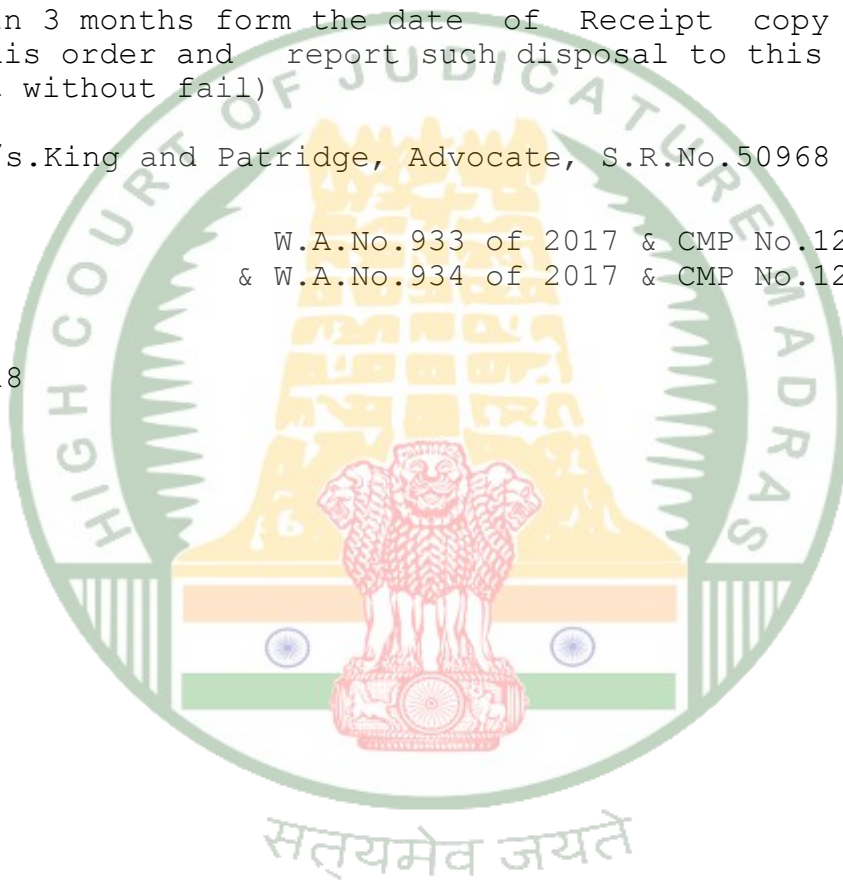
3. Assistant Executive Engineer, EB,
TANGEDCO, No.16, Park Street,
Alwarthirunagar, Chennai 600 087.
4. Assistant Executive Engineer, EB,
TANGEDCO, No.16, Park Street,
Alwarthirunagar, Chennai 600 087.
5. The Subordinate Judge,
Poonamallee

(decreetal to dispose the suit in OS.No65 of 2015
within 3 months form the date of Receipt copy
of this order and report such disposal to this
court without fail)

+2cc to M/s.King and Patridge, Advocate, S.R.No.50968 & 50969

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& W.A.No.934 of 2017 & CMP No.12957 of 2017

SVN(CO)
CS/07/09/18



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