

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.05.2018

CORAM

THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12825 of 2018

and

W.M.P.Nos.15062 & 15063 of 2018

M/s.Rayakottai Fuel Service,
Rep. By its Proprietor,
S.Jayapal,
No.56/2A, Dharmapuri Road,
Rayakottai - 635 116,
Krishnagiri District.

.... Petitioner

Vs.

The Bharath Petroleum Corporation Ltd.,
Rep. By its Territory Manager,
Karur Retail Territory,
Office at Athur and Kadaparai Village,
Karur - 639 008.

.... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of impugned order dated 26.04.2018 in KRT/NPF/RYKT/ 005 issued by the respondent herein in so far as rejection of Resitement of dealership of the petitioner and quash the same, consequently direct the respondent herein to approve the Resitement of dealership of the petitioner viz., M/s.Rayakotta - 635 116, Krishnagiri District forthwith.

For Petitioner : Mr.M.R.Jothimanian

For Respondent : Mr.K.T.Sanakara Subramanian

For M/s.Kings & Patridge

ORDER

The petitioner, who is a Proprietorship concern viz., Rayakottai Fuel Service represented by its Proprietor S.Jayapal, having a dealership of Petroleum products from the year 1981. For the establishment of the Petrol Bunk in the land in S.No.56/2A, a lease agreement was entered between the petitioner

and the land owner viz., Bakthavatchalam. Thereafter, the petitioner has established the dealership in the said land and he is in possession and enjoyment of the said land with valid Lease Deed for a period of 30 years and the same was also registered and also that, there was no dispute in respect of lease till the land owner's alive. However, in the year 2012, the legal heirs of the said land owner viz., Bakthavatchalam, had raised an objection to the petitioner's possession of the property and denied the title of the petitioner's property. Hence, the petitioner filed a civil suit in O.S.No.83 of 2012 before the Sub Judge, Hosur for permanent injunction to continue the petrol bunk in the said land. The Learned Sub Judge, Hosur, by an order dated 23.08.2013, granted an interim injunction till the disposal of the said suit. Subsequently, the suit was dismissed by the trial Court on 07.07.2014. Against which, A.S.No.20 of 2014 was filed and the same was also dismissed on 16.12.2014. In the meanwhile, the defendants in the suit have filed a suit in O.S.No.150 of 2013 for vacating the premises and the same was ordered on 07.01.2014. Therefore, the petitioner has filed C.R.P.(PD).No.613 of 2014 before this Court and obtained an interim order on 24.02.2014 and later, the said Civil Revision Petition was also dismissed by this Court and since there was no option to request the respondent to consider resitment of the dealership the petitioner had identified five places in Krishnagiri, Dharmapuri and Salem District for Resitment of the dealership. But, no orders have been passed by the respondent, in spite of giving a repeated representations. On 26.04.2018, the respondent rejected the request of the petitioner's resitment of the dealership without any valid reasons and asking him to appear before him with necessary documents within a period of 15 days. On 02.05.2018, the petitioner had appeared before the respondent and submitted an explanation for retaining the existing site and requested to consider the resitment of dealership and no orders have been passed by the respondent on the said explanation and the impugned order dated 26.04.2018 stand still. Hence, the petitioner sought for a mandamus.

2.The learned counsel appearing for the respondent/Petroleum Corporation would submit that the averments in the affidavits are false and no such papers have been produced before the concerned authorities. The petitioner has reiterated that he has already submitted the same.

3.To put an end to this, the petitioner is directed to submit all the relevant documents/details pertaining to the resitment of the dealership proposal before the respondent within a period of two weeks from the date of receipt of copy of this order and thereafter within a period of two weeks, the respondent is directed to dispose of the same as per the Scheme.

4.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

Sgl

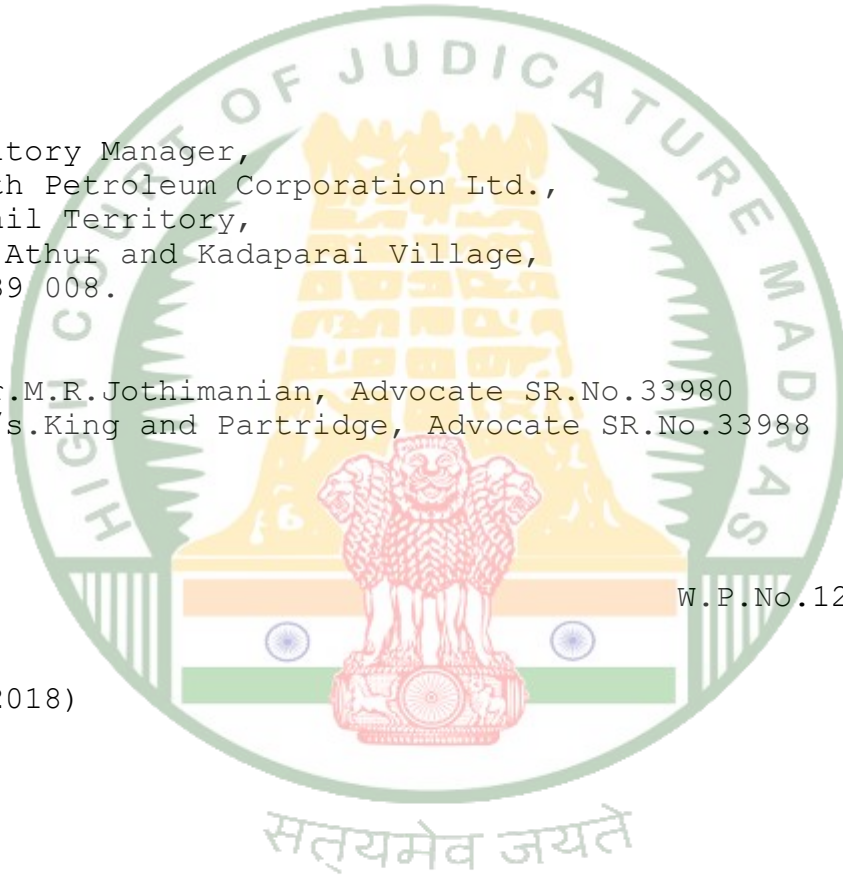
To

The Territory Manager,
The Bharath Petroleum Corporation Ltd.,
Karur Retail Territory,
Office at Athur and Kadaparai Village,
Karur - 639 008.

+1cc to Mr.M.R.Jothimanian, Advocate SR.No.33980
+1cc to M/s.King and Partridge, Advocate SR.No.33988

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RK(CO)
GN(30/05/2018)



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