

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38642 of 2016
and
W.M.P.No.33101 of 2016

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. Petitioner

Vs.

1. The Regional Manager,
The Hindustan Petroleum Ltd.,
"Petro Bhavan" 2nd Floor,
No.82, T.T.K.Road,
Alwarpet, Chennai - 600 018.
2. 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.
3. Sri Murugan Agencies - ADHOC,
Dealer of Hindusthan Petroleum Corporation Ltd.,
No.442/4, Arcot Road,
Porur, Chennai - 600 116. Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent not to let out premises to third respondent on adhoc basis from running a petroleum outlet 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.

For Petitioner : Mr.David Tyagaraaj

For R1 : Mr.M.Vijayan for
M/s. King & Partridge

For R2 : Mr.V.Raghavachari

For R3 : Mr.D.Sai kumaran

O R D E R

The relief sought for in this writ petitioner is to direct the first respondent not to let out premises to third respondent on adhoc basis from running a petroleum outlet 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.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner is the absolute owner of the property situated in S.No.442/4, measuring a extent of 7680 sq.ft. at Door No.442/4, Arcot Road, Ambattur Taluk, Maduravoyal Village, Porur, Chennai - 600 116. Originally, the writ petitioner leased out the property in favour of the second respondent.

3.The allegation against the second respondent is that the second respondent without the permission of the writ petitioner further entered into an agreement with the third respondent by way of subletting. Now, the grievances of the writ petitioner is that the first respondent is permitting the third respondent to lease the petrol bunk on adhoc basis. Therefore, the first respondent has no authority to lease out the property in favour of the third respondent. Undoubtedly, the owner of the property alone is competent to lease out the property in favour of any other persons. The original lease was entered between the writ petitioner and the second respondent. Subsequently, the third respondent entered into an agreement with the first respondent for leasing the petrol bunk.

4.May that it be, this Court is of an opinion that these are all the disputed facts which are to be adjudicated before the Competent Civil Court of law in respect of this and other civil rights. This Court cannot verify the original documents and the authenticity of such lease and otherwise in the writ proceedings under Article 226 of the Constitution of India. Such disputed facts are to be adjudicated before the Competent Civil Court of law by the respective parties for the purpose of redressing their grievances.

5.In the present writ petition, the writ petitioner claims that they are the owners of the property in question. The second respondent was the original lease holder. Subsequently, the third respondent is in possession of the property, the third respondent entered into an agreement with the first respondent for the supply of petroleum products. Thus, these all are the disputed facts submitted by the respective parties before this Court.

6.Further, it is contended that the third respondent is only an adhoc dealer and therefore, all the facts are to be adjudicated before the Competent Civil Court of law. This apart, the writ petitioner already filed a suit in O.S.No.64 of 2015, for eviction of the respondents and it is for the writ petitioner to pursue the civil suit already filed and redress his grievances in the manner known to law and by producing documents and by adducing evidence. Hence, these factual disputes cannot be adjudicated in the present writ proceedings and thus, the liberty is granted to the writ petitioner to pursue the suit and get disposed of in accordance with law.

7.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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+1cc to Ms.King and Patridge, Advocate, S.R.No.41095.
+2ccs to Mr.David Tyagaraj, Advocate, S.R.No.40722.
+1cc to Mr.V.Raghavachari, Advocate, S.R.No.40714.

SS(CO)
BM 03/08/2018

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