



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.A. (MD) No. 1227 of 2015

and

M.P (MD) Nos. 1 and 2 of 2015

and

C.M.P (MD) No. 8889 of 2017

A. Jose Antony

... Appellant/ Petitioner

Vs.

1. The Deputy General Manager (I/C), LPG,
Indian Oil Corporation Ltd.,
Marketing Division,
Southern Region,
'Indian Oil Bhavan',
No. 139, Mahatma Gandhi Road,
(Nungambakkam High Road),
Chennai - 600 034.

2. The Chief Area Manager,
Indane Area Office,
Indian Oil Corporation Ltd.,
No. 2, Race Course Road,
Chokkikulam,
Madurai - 2.

3. The Sales Officer,
Manager LPG Sales,
Indian Oil Corporation Ltd.,
No. 3/9, T1 Muthamizh Apartment,
5th Main Road, Maharaja Nagar,
Tirunelveli - 627 011.

... Respondents/ Respondents

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in W.P (MD) No. 15349 of 2015, dated 08.10.2015.

Prayer in WP (MD). 15349/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 1st respondent in Ref: TNL / S/ 218 dated 27.07.2015, quash the same and consequently direct the respondents herein to allow the petitioner s lawful business in terms of Distributorship Agreement dated 01.07.2010 with renewal of agreement.



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For Appellant : Mr.A.Rajkumar Sen
For Respondents : Mr.K.Muraleedharan
for R.1 & R.2
No appearance for R.3

* * * * *

JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN,J.)

The appellant is the writ petitioner and he made a challenge to the proceedings of the first respondent dated 27.07.2015, in and by which, his LPG Dealership came to be terminated. The writ petition, after contest, came to be dismissed on 08.10.2015 and challenging the legality of the same, he filed this writ appeal.

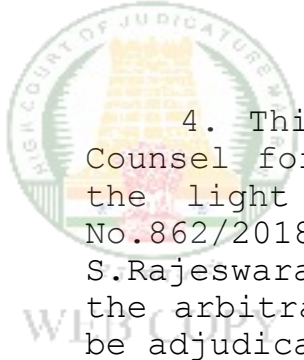
2. This writ appeal was admitted on 18.02.2016 and no interim orders were granted.

3. The writ appeal is listed today for hearing and the respective learned Counsel for the parties to this writ appeal had filed a Joint Memo, dated 13.02.2018, vide USR No.862/2018 and it is relevant to extract hereunder the same:

"JOINT MEMO

1. It is submitted that the Appellant is the dealer in Indane Distributor ship. The Indane Distributor ship agreement dated 01.01.2010 of the respondent containing arbitration proceeding in Clause 37(a) that any dispute and reference in relation to the agreement shall be referred to arbitrator "Director Marketing" of the Corporation. In view of the bar under section 12 of the Arbitration and conciliation Act 1996 (inserted by Act 3 of 2016) both parties agree for common arbitrator as per the arbitration and conciliation Act (Amendment / Act 2015).
2. Thus the Appellant and Respondent hereby Mutually agree to appoint his Lordship Hon'ble Justice Mr.S.Rajeswaran (Retired) (Mobile No.9383212239) as the sole Arbitrator to decide the dispute between the parties hitherto. The expenses for the proceedings to be borne by both the parties equally. The venue of arbitration proceeding may be conducted at Madurai.

Therefore, it is humbly prayed that this Hon'ble Court may be pleased to record this Memo and appoint arbitrator mutually agreed by the parties and to pass orders may deem fit and thus render justice."



4. This Court heard the submissions of the respective learned Counsel for the parties who, on instructions, would submit that in the light of the said Joint Memo, dated 13.02.2018, vide USR No.862/2018, the Sole Arbitrator, namely, the Honourable Mr. Justice S. Rajeswaran, Judge (Retired), High Court of Madras, would commence the arbitration proceedings and therefore, the writ appeal may not be adjudicated on merits.

5. Accordingly, the Joint Memo, dated 13.02.2018, vide USR No.862/2018, is taken on file and record.

6. In the light of the said development, nothing survives for adjudication in the writ appeal and therefore, this writ appeal is closed. However, in the facts and circumstances of the case, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

+1cc to Mr.A.RAJKUMAR SEN, Advocate, SR.49922

+1cc to Mr.K.MURALEEDHARAN, Advocate, SR. 50429

W.A. (MD) No.1227 of 2015

and

M.P (MD) Nos.1 and 2 of 2015

and

C.M.P (MD) No.8889 of 2017

20.02.2018

RSB

KK/SV MMS/SAR 4/23.02.2018/ 3P- 3C/