

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL No.1050 of 2017

JUDGMENT: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard the learned counsel for the appellants - a petroleum company and its representative. We have also heard the learned counsel for the respondent – writ petitioner.

2. This Appeal is against the interlocutory order passed by the learned single Judge during the course of the writ petition. The learned counsel for the appellants submits that the interlocutory order was passed after filing of the counter affidavit. This fact is evident from the impugned order itself in as much as the learned single Judge has noticed the contentions on either side. Ultimately, the learned single Judge has concluded that equitable considerations lead to an interlocutory order in favour of the writ petitioner. The impugned order discloses the application of mind by the learned single Judge to the relevant facts and factors.

3. The land, on which the petroleum outlet stands, originally belong to Subbamma, who is no more. Subbamma leased the land to the appellant petroleum company for a period of fifteen years. After her death in 2016, her legal representative granted a fresh lease to the petroleum company. However, since he was not locally available, alternative arrangements were made according to the petroleum company. The writ petitioner was a temporary dealer of the petroleum company. The question, therefore, is as to whether the priorities which the learned single Judge has found and the comparison of the concept of 'Company Owned Company Operated unit' vis-à-vis a dealer requires deeper examination. According to the learned single

Judge, the matter, at the stage when the impugned order was issued, called for granting interim order for the reasons stated in the impugned order. Noticing that there is a fair application of mind to the facts of the case, we do not see that there is any jurisdictional infirmity or illegality in the order passed by the learned single Judge. Be that as it may, we may clarify that the learned single Judge may make an effort to dispose of the writ petition finally unraveled by any reasons stated in the order that is impugned in the Writ Appeal. The Writ Appeal, therefore, fails.

4. In the result, the Writ Appeal is dismissed. Miscellaneous petitions pending in this Writ Appeal, if any, shall stand closed. There shall be no order as to costs.



THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

29.08.2018
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