

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.38272 OF 2016

DATED : 30.01.2018

Between :

Sabbela Venkata Reddy S/o.Veerreddi,
Aged about 55 yrs, Occu : Business,
R/o.Samalkot, East Godavari District.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue Department, Secretariat,
Hyderabad & others.

.. Respondents



This court made the following :

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ORDER :

With the consent of learned counsel the writ petition is taken up for final disposal.

2. Petitioner claims that he applied for grant of licence to operate petroleum retail outlet on behalf of Indian Oil Corporation. Accordingly, the Indian Oil Corporation granted licence on 30.05.1996 to run the retail outlet on land in Sy.No.26/4 and 26/4B, Bhimavaram Village, Samarlakota, East Godavari District. The licence was further renewed on 25.04.2015 till 31.12.2017. While, so, on 28.05.2016, the Essar Oil Limited, Vijayawada, Krishna District-4th respondent, has made an application to the District Magistrate of East Godavari District, to grant No Objection Certificate (NOC), to run the petroleum retail outlet on the same subject premises. Apprehending that the District Magistrate was in the process of granting NOC and in such an event grave prejudice would be caused to the petitioner in operating the petroleum outlet, this writ petition is filed.

3. In support of his contention, petitioner placed reliance on the licence granted initially and the renewal granted on 25.04.2015, which *per se* renews licence till 31.12.2017. Duly taking note of these facts, this Court by order dated 08.11.2016, granted *status quo* of operation as on that date, with regard to the land in dispute and issuance of NOC in favour of the 4th respondent.

4. Learned counsel for the petitioner submits that a civil dispute is pending between petitioner and owners of the property and illegally owners of the property sought to establish petroleum retail outlet by dispossessing petitioner and same is not valid. He further submits that since outlet already exists and valid licence is in operation, there cannot be second outlet on the same premises and the District Magistrate cannot grant NOC. Thus, balance of convenience is in favour of petitioner and unless the licence period expires, or the dealership granted in favour of petitioner is cancelled by the IOC, no fresh petroleum outlet by different company can be established.

5. Along with counter and vacate petition, order passed by the I-Additional Junior Civil Judge, Kakinada on 18.09.2015 in I.A.No.621 of 2015 in O.S.No.260 of 2015 is enclosed. Relying on said order and consequential legal notice issued on behalf of property owners and letter written by the IOC on 25.06.2015 addressed to dealer, learned counsel for 4th respondent contended that as held by trial Court petitioner is not in possession and enjoyment of subject property and that petroleum outlet is not in operation for long time.

6. As noted from the prayer, this writ petition is instituted on the apprehension of granting NOC in favour of 4th respondent by the District Magistrate, in response to the application made by him. Admittedly no NOC was granted by the time writ petition was instituted. In the writ petition, reliance was placed on pending suit in the Court of I-Additional Junior Civil Judge, Kakinada. However, it is seen that there is no mention of vacation of injunction order in the affidavit filed in support of writ petition.

Furthermore, reliance was placed by petitioner on renewal of licence granted on 25.04.2015 without disclosing subsequent developments.

7. Petitioner filed I.A.No.621 of 2015 under Order 39 Rules 1 and 2 of Code of Civil Procedure, to grant temporary injunction. On elaborate consideration, trial Court found that petitioner was not in possession and enjoyment of the suit schedule property and therefore, held that balance of convenience is not in favour of petitioner and dismissed the said I.A.

8. Learned counsel appearing for the 4th respondent submits that said order has become final. It is also seen from the documents enclosed to the counter affidavit of 4th respondent, in response to the notice issued, three tankers and fixtures were removed from the subject property and kept aside. It is also significant to note that on 25.06.2015 the IOC wrote letter to M/s. Veera Venkata Ratna Agency that as the retail outlet is not operating for long time and the automation equipments are lying idle in the outlet they are being shifted to other location. Thus, these documents clinch that petitioner was not in possession and that the petroleum outlet was not operating as sought to be contended before this Court. Thus, petitioner has not disclosed true and correct facts to seek equitable relief from this court.

9. It is appropriate to note that on 01.11.2016 the Government of India granted licence to the 4th respondent to operate petroleum retail outlet in the subject premises. It is also appropriate to note that the Government of India granted licence to Indian Oil Corporation Limited. Petitioner was operating the retail outlet on

behalf of the IOC. The IOC is not agitating alleged grant of licence to other petroleum company and on the contrary the letter written by IOC on 25.06.2015 itself would disclose that the outlet is not in operation.

10. Having regard to these facts, the contention of the petitioner that he was operating petroleum retail outlet consequent to the licence granted is stated to be rejected and the writ petition is liable to be dismissed. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

30th January, 2018
Rds

P.NAVEEN RAO,J

