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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 20.3.2018

+ **W.P.(C) 8283/2016 & CM Appl.34288/2016**

SATYA BAHIN

..... Petitioner

Through: Mr. Medhanshu Tripathi with
Mr. Harsh Shama and Mr.
Sidharth, Advs.

versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr. Ajay Digpaul, CGSC with
Mr. Ashutosh Nandan Atrey,
Adv. for R-1.
Mr. Avneesh Garg with Mr. P.
Sinha, Advs. for R-2.
Mr. Siddhant Sharma, Adv. for
Ms. Priyanka Agarwal, Adv. for
R-3.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SHAKDHER

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RAJIV SHAKDHER, J. (ORAL)

1. This is a writ petition seeking following substantive reliefs:

“A) Issue the Writ of Mandamus or Certiorari or Direction to the Respondent no.1, 2 and 3 to hand over the peaceful vacant possession of the property bearing Khasra no.43/2 Tundla, Atmadpur, Tundla Road, Near Multan Singh Samadhi/Ferozabad (UP) over which a petrol pump in the name and style of “Bhagat ji filling Station” is run by Respondent no.3 in active connivance of Respondent no.1 and 2.;

B) Direct the Respondent no.1 to 3 to pay a compensation in an amount of Rupees two crore ten lakhs (2.10 crore)(approx.)/(fifty thousand rupees daily) for commercially exploiting the land of the petitioner without her permission and consent or any court order from May 2015 to September 2016 with 18% and further fifty thousand daily till peaceful surrender of the land to the Petitioner.”

2. The petitioner is the lessor of the subject property. The subject property is located at Ferozabad (U.P.). To being with the subject property was leased to Mr. Dharmesh Kumar.

2.1 Pursuant to the judgment of the Supreme Court rendered in *Common Cause (a Registered Society) vs. Union of India & Ors., 1996 (6) SCC 530*, the dealership of Dharmesh Kumar *qua* the petrol pump set up on the subject property was cancelled.

2.2 The Supreme Court, however, directed, specifically, vide order dated 22.8.1997 that insofar as the leasehold interest of Dharmesh Kumar was concerned, that would be transferred to a new auction purchaser. The directions contained in the said order are extracted hereafter:

“The site allotted to Mr. Dharmesh Kumar, Shikohabad, Firozabad is a lease hold site. The petrol pump is situated on the lease hold land. The structure has also been put up by Dharmesh Kumar. The structure and lease hold interest or Dharmesh Kumar may be sold in terms of the order passed on 25th September, 1996.”

It is made clear that all directions given in the order dated 25th September, 1996 regarding manner of holding the auction and disposal of the purchase price will continue.

It is clarified that the purchaser will have the same right, title and interest in the land and the structure as was enjoyed by the lessee or the owner, as the case may be.”

(emphasis is mine)

3. It is in these circumstances that respondent No.3 acquired the leasehold interest in the property.

4. It is not disputed before me that the lease executed between the petitioner and Dharmesh Kumar had a tenure of 20 years, which came

to an end on 19.5.2015.

4.1 This aspect is not disputed before me by the counsel for respondent No.2/HPCL. As a matter of fact, this aspect clearly emerges upon perusal of communication dated 30.3.2010 addressed by respondent No.2/HPCL to the Ministry of Petroleum and Natural Gas, Government of India.

5. It is on account of this reason that the petitioner is aggrieved and therefore, has approached this Court for the reliefs set out above.

6. What has, however, come through after perusing the record and the arguments of the counsels for the parties is that respondent No.3 has filed a Suit bearing No.3995/2015 in the court of Senior Division Judge, Ferozabad. In that suit, the petitioner has been arrayed as a defendant. In this suit relief of permanent injunction is sought.

6.1 I am informed that the suit is pending adjudication.

7. Faced with these circumstances, counsel for the petitioner says that he would like to withdraw the captioned petition and take appropriate steps for re-possession of the subject property, albeit before the relevant forum. Counsel for the petitioner, however, says that respondent No.2/HPCL has been supplying fuel to respondent No.3, despite being aware of the fact that the leasehold interest of respondent No.3 in the subject property has come to an end.

7.1 Given these circumstances, counsel for the petitioner says that respondent No.2/HPCL should take a decision as to whether it would continue to supply fuel to respondent no. 3 even though the lease tenure of the subject property has decidedly expired.

8. Having regard to the foregoing the maximum that this Court can do, at this juncture, is that if the petitioner makes a representation to respondent No.2/HPCL, it will deliberate upon the same and pass an

appropriate order in accordance with law, which would include according a hearing to respondent no. 3.

9. Accordingly, this writ petition is dismissed as withdrawn as prayed for, with liberty to the petitioner to make a representation before respondent No.2/HPCL with regard to the aspects referred to above. If such representation is made to respondent No.2/HPCL, respondent No.2 will dispose of the same as expeditiously as possible, though not later than four weeks from today.

10. Furthermore, liberty is given to the petitioner to take appropriate step before the relevant forum to seek re-possession of the subject property.

11. Pending application is closed.

RAJIV SHAKDHER, J

MARCH 20, 2018/pmc