

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.13012 of 2007
and
M.P.No.1 of 2007

N.N.Naidu & Son
Dealers in Petroleum Products
Charring Cross,
Ooty/The Nilgiris ...Petitioner

Vs

- 1.The Special Commissioner and
Commissioner of Land Admn.,
Chepauk, Chennai - 5.
- 2.The Tahsildar,
Udagamandalam,
The Nilgiris.
- 3.Bharat Petroleum Corpn Ltd.,
Irrigur Top Installation,
Ravathur P.O.,
Irigur (Via) Coimbatore
PIN 641 103. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of certiorari, calling for the records of the second respondent therein relating to his distraint order dated 29.12.2006 under Section 8 of the Revenue Recovery Act, in respect of the Bharat Petroleum Corporation retail outlet in Survey No.1749 and 1750 and quash the same.

For Petitioner : Ms.AL.Ganthimathi

For Respondents : Mr.I.Sathish
Additional Government Pleader

for R1 & R2
Mr.O.R.Santhanakrishnan for R3

O R D E R

Heard Ms.AL.Ganthimathi, learned counsel for the petitioner, Mr.I.Sathish, learned Additional Government Pleader for the respondents 1 and 2, Mr.O.R.Santhanakrishnan, learned counsel for the third respondent and perused the materials available on record.

2.This writ petition has been filed challenging the distraint order of the second respondent, for recovery of Rs.1,02,08,758/-.

3. The case of the petitioner Company is that he is a dealer in the sale of petroleum products of the third respondent and is running a retail outlet in Survey Nos.1749 and 1750 at Udagamandalam. The petitioner would further state that the site measuring an extent of 22 cents in the said survey numbers was initially leased out to the petitioner in the year 1940 by the Public Works Department and the same was expired on 17.01.1957. Subsequently, the land was transferred to the Revenue Department and the petitioner paid the monthly rent till 1978.

4. It is the case of the petitioner that the third respondent made an application to the District Collector for grant of lease and the Government took over the site from the petitioner on 15.5.1981 and handed over the same to the third respondent and thereafter, the lease amount was fixed. According to the petitioner, the lease amount was arbitrarily enhanced without any due notice.

5. The second respondent has filed a counter stating that the petitioner is not a lessee of the land. Since the demand has been made against the third respondent, the petitioner has no locus standi to file the writ petition.

6. In the instant case, the petitioner company itself has admitted that the land in dispute was leased out to the petitioner in the year 1940 and after expiry of the lease period, the land was handed over to the Government on 15.05.1981. Indisputably, no demand is made against the petitioner. Hence, I am of the considered opinion that the petitioner, who is said to be the dealer of the third respondent has no locus standi to file this writ petition.

7. In such view of the matter, the writ petition is dismissed as not maintainable, however, granting liberty to the third respondent to challenge the order in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

ms

To

1.The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai - 5.

2.The Tahsildar,
Udagamandalam,
The Nilgiris.

3.Bharat Petroleum Corporation Limited,
Irrigur Top Installation,
Ravathur P.O.,
Irigur (Via) Coimbatore
PIN 641 103.

+1 CC to M/s.A.L. Gandhimathi, Advocate sr 68236.

+1 CC to Mr.O.R.Santhanakrishnan, Advocate sr 67971.

+1 CC to Govt. Pleader sr 68453.

W.P.No.13012 of 2007

RSI (CO)

SP(13/08/2019)

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