

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :07.01.2019
CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No. 21192 Of 2018 and
WMP.Nos. 24862, 24863 of 2018 and 21192 of 2018

1. R. Rajeswari

2. R. Gowsalya

..Petitioners

vs

1.Bharat Petroleum Corporation Limited
A Government of India Enterprise,
Coimbatore LPG Plant,
Post Box No. 1644,
Peelamedu,
Coimbatore-641 004.
Rep. By its Territory Manager.

2. T.Sathish kumar

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus forbearing the 1st respondent from extending any commencement order in favour of the business run in the name and style of Saravana Bharat Gas Agency by the 2nd respondent in any manner either by themselves, their workmen, agents, representatives and assigns etc., and consequently close the dealership at our property as we have not given any consent for running such business at any point of time.

For Petitioners : Mr. D. Ashok Kumar

For Respondents : Mr. M. Vijayan

for M/s. King and Patridge (R1)

Mr. G. Arulmurugan (R2)

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O R D E R

The Writ Petition has been filed by the petitioners, who claim to be the owners of the land having leased out the same to the second respondent for the purpose of running the LPG showroom and godown to store LPG cylinders, to forbear the first respondent from extending any commencement order in favour of the second respondent for running the agency in the name and style of Saravana Bharat Gas Agency.

2. Admittedly, the petitioners have leased out the property in favour of the second respondent by executing registered lease deed dated 17.10.2013 for the purpose of erection of godown and showroom etc. Now, it is contended by the petitioners that the lease was executed in favour of the second respondent only on the assurance that the second respondent would join the petitioners as partners in their agency.

3. The petitioners are now seeking the relief not to extend any commencement order for running the business. It appears that the petitioners obtained an order of status quo crippling the business of the second respondent. The learned counsel appearing for the petitioners would contend that though the lease deed was executed in the year 2013, the business had commenced only after almost five (5) years was over. It is further contended that the property leased out is not suitable for the business for which it is taken.

4. When admittedly, the lease deed had been executed by the petitioners knowing the purpose for which it is leased out, the petitioners are estopped from making such a claim. The petitioners also have no right to seek any relief against the first respondent in the absence of any privity of contract between the first respondent and the petitioners. If the leased out property is not suitable for the purpose for which it is taken up, it is for the Corporation to look into the same. The petitioners can be aggrieved only if there is any breach of contract between the petitioners and their lessee, the 3rd respondent. It is always open to them to resolve their dispute in the manner known to law. The non-suitability of the premises for the purpose it is taken for is to be decided only by the respondents 1 and 2, as it is within their domain. The petitioners have not established that there is any infraction of statute or that the 2nd respondent is acting in collusion with the R1. The petitioners have got no right to invoke Article 226 of the Constitution of India for resolving the civil dispute, if any.

5. In view of the same, this Writ Petition is dismissed as not maintainable. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

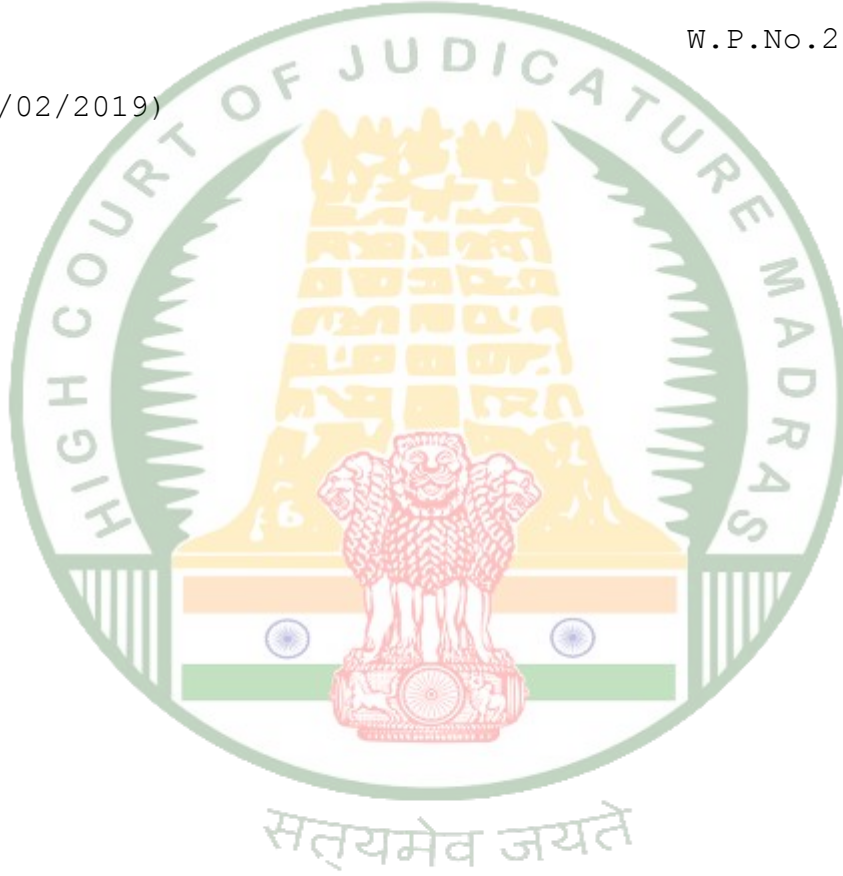
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To
The Territory Manager,
Bharat Petroleum Corporation Limited
A Government of India Enterprise,
Coimbatore LPG Plant,
Post Box No. 1644,
Peelamedu,
Coimbatore-641 004.

+1cc to Mr.D. Ashok Kumar, Advocate SR.No. 2294
+1cc to Mr.G. Arulmurugan , Advocate SR.No. 1610
+1cc to M/s. King and Patridge, Advocate SR.No. 13441

W.P.No.21192 2018

A.SK(07/02/2019)



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