

A.Nos.3464 and 3465 of 2019**PUSHPA SATHYANARAYANA.J**

A.No.3464 of 2019 is filed by the applicant seeking an order of interim stay of operation of the proceedings of the second respondent in termination order bearing Ref.No.SLM/DPR/RAJU dated 06.03.2019 so as to enable the applicant to continue to run the retail outlet under the name and style of M/s.Raju and Sons, pending disposal of Arbitration Proceedings.

2. A.No.3465 of 2019 is filed by the applicant seeking a direction to the respondents to de-seal the storage tank lids sealed with QRC holograms No.24944 (for MS) and QRC holograms No.24945 (for HSD) and permit them for continuance of sale of available stocks in the Retail Outlet Ms(Petrol)-3506 liters and HSD(Diesel)-6660 litres stock approximately at all four nozzles of M/s.Raju and Sons produces and continuance of operation of the Retail outlet M/s.Raju and Sons pending disposal of the Arbitration Proceedings.

3. The Applicant, being an authorized dealer of retail outlet Petroleum / Oil Products of corporation, entered into a Dealership Agreement dated 28.12.2016 with the respondent/Corporation. During inspection in the retail outlet on 31.08.2018, the officials of the respondents observed that there was positive stock variation beyond permissible limits by 2896 litres in MS (Petrol) and advised to stop the sales immediately. Subsequently, samples were drawn from the retail outlet for testing and no variations were found in the result.

However, a show cause notice dated 03.09.2018 was issued by the first respondent to the applicant calling for explanation as to why action need not be initiated against them for the irregularity. The applicant gave an explanation letter dated 21.09.2018 stating that he was busy with his marriage function and some errors had happened in the retail outlet due to improper maintenance of books of accounts by the new Manager. Not satisfied with the explanation of the applicant, the second respondent issued a notice dated 15.12.2018, for which, the applicant submitted a reply dated 22.12.2018.

4. Since the explanation was not considered, the applicant filed a Writ Petition in W.P.No.2055 of 2019 seeking to direct the second respondent to consider the explanation dated 22.12.2018 and also to permit them to continue the dealership and to run the outlet. The said Writ Petition was disposed of by this Court on 28.01.2019 directing the second respondent to consider the petitioner's reply/representation dated 22.12.2018 and to pass appropriate orders on merits and in accordance with law, after issuing notice to the petitioner as well as the persons interested in this regard, within a period of two weeks from the date of receipt of a copy that order.

5. Pursuant to the order of this Court, the applicant was called for the hearing on 11.02.2019. It is stated that the second respondent passed the impugned order dated 06.03.2019 terminating the Dealership Agreement dated 28.12.2016, without appreciating the explanation given by the applicant.

6. Seeking to quash the said impugned order, the applicant filed another Writ Petition before this Court in W.P.No.10171 of 2019 and the said Writ Petition was dismissed as withdrawn on 05.04.2019 with liberty to file an Arbitration suit.

7. As per the Dealership Agreement, if any dispute or difference arising out of the Agreement, the same shall be referred to Arbitration. Therefore, on 26.04.2019, the applicant issued notice to the first respondent requesting them to resolve the dispute by invoking the arbitration clause. According to the applicant, the sale of stocks of MS(Petrol) and HSD(Diesel) at the retail outlet was suspended, which would cause irreparable loss and hardship to them. Hence, these applications are filed.

8. Heard both parties.

9. When the matter is called for hearing today, both the learned counsel have agreed to appoint Mr.S.Senthil Kumaresan, as an Arbitrator.

10. Having regard to the submissions of the learned counsel for both sides and in view of the consent given by the both learned counsel, this Court appoints Mr.S.Senthil Kumaresan, a retired Principal District Judge having Office at No.37, "A" Block, "Lakshmi Nivas", Marshalls Road, Egmore, Chennai

and adjudicate the disputes inter se between the parties. The learned Arbitrator may, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses. The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

11. In view of the above appointment of Arbitrator, these applications shall stand closed.

srn

25.07.2019



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