

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HONOURABLE DR. JUSTICE VINEET KOTHARI

AND

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WA.Nos.2409 & 2417/2019 & CMP.Nos.15809, 15879 & 15880/2019

**WA.No.2409/2019**

Indian Oil Corporation Limited  
rep.by its Chief Manager  
Coimbatore Divisional Office  
Indian Oil Bhavan, 8/1079, Avinashi Road  
Coimbatore 641 018. ..Appellant/Petitioner

Vs

1.The Commissioner  
Udumalpet Municipality  
Udumalpet, Tirupur District.

2.M/s.Sri Ram Agencies  
120, Palani Road, Udumalpet Town  
Tirupur District. ...Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 28.06.2019 made in WP.No.9179/2019.

Prayer in WP.No.9179/2019:- This Writ Petition filed under Article 226 of the Constitution of India, praying to Calling for the records pertaining to the order of the 1st respondent in Roc.No.874/2015/A1 dated 11.02.2019 and quash the same and consequently direct the respondent to permit the petitioner to run the retail outlet with fresh lease and on mutually agreeable terms as has been done for the past more than 50 years.

For Appellant : Mr.Karthik, Senior Counsel for  
Mr.V.Anantha Natarajan

For R1 : Mr.S.R.Rajagopal, AAG assisted by  
Mr.B.Anand

**WA.No.2417/2019**

M/s.Sri Ram Agencies  
120, Palani Road, Udumalpet Town  
Tirupur District.

..Appellant/2<sup>nd</sup> Respondent

-Vs-

1.M/s.Indian Oil Corporation Limited  
rep.by its Chief Manager  
Coimbatore Divisional Office  
Indian Oil Bhavan, 8/1079, Avinashi Road  
Coimbatore 641 018. ...1<sup>st</sup> Respondent/ Petitioner

2.The Commissioner  
Udumalpet Municipality  
Udumalpet, Tirupur District. ...2<sup>nd</sup> Respondent/ 1<sup>st</sup> Respondent

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For Appellant : Mr.B.Kumarasamy for  
Mr.S.Gunalan

For R2 : Mr.S.R.Rajagopal, AAG assisted by  
Mr.B.Anand

**COMMON JUDGMENT**

[Judgment of the Court was delivered by DR.VINEET KOTHARI, J.]

WA.No.2409/2019 is filed by the appellant-Indian Oil Corporation and WA.No.2417/2019 is filed by the appellant-Dealer, aggrieved by the order of the learned Single Judge dated 28.06.2019, whereby the learned Single Judge had dismissed the writ petition filed by the Indian Oil Corporation and directed them to remove the constructions, installed sumps and pumps to facilitate taking over the possession of the property in question which was leased to them by the respondent-Udumalpet

Municipality for last many years ; but the lease period expired admittedly on 31.03.2019.

2 The respondent-Udumalpet Municipality required the said premises in question to provide access to a weekly market to be set up for small vendors on the land of the Municipality situated behind the back of the said Service Station and Fuel Station of the Indian Oil Corporation situated on the National Highways 209-Coimbatore to Palani.

3 Mr.Karthick, learned Senior Counsel assisted by Mr.V.Anantha Natarajan, learned counsel appearing for the appellant/Indian Oil Corporation would fairly submit that to shift the Fuel Station which has been running on the said premises in question for the last 50 years or so, it may take about six months period to uninstall the Petrol Pump and other Equipments installed at that place and to close the business there. But, the appellant-Indian Oil Corporation being a Public Sector Undertaking is ready to immediately hand over the passage through the premises under the lease which was upto 31.03.2019 to an extent of 39 feet wide x 62.3 feet length, which would even include the demolition of the Booster Station and some building portion situated in the said passage of 39 ft wide x 62.3 ft length on the North to South side of the said premises in question and for the removal of the remaining set up of the Fuel Station and Service Station as indicated in the Map produced before us, the appellant-Indian Oil Corporation requires six months period from today.

4 The prayer appears to be justified and therefore, we took the response of the learned counsel for the respondent/Udumalpet Municipality, who would submit that though the land in question was required for public purpose, if the appellant/Indian Oil Corporation gives passage of 39 ft width X 62.3 feet length immediately within a period of one week from today after demolishing their constructions, if any, on that passage way which inter alia include an erstwhile sub-leased part in favour of M/s.Sri Krishna Sweets, then a period of six months from today can be allowed to the appellant/Indian Oil Corporation for removal of the remaining portion of the Fuel Station and the constructions from the site in question and hand over vacant and peaceful possession of the entire premises in question, within the said period of six months from today.

5 Thus, by a mutual consent and agreement of the parties, the present writ appeals are disposed of in the following terms:-

- I. The appellant/Indian Oil Corporation shall immediately provide the passage of 39 feet width x 62.3 feet length on the North - South side of the Fuel Station in question by demolishing portions of construction raised by them within

a period of one week from today and hand over that portion of 39'' x 62.3'' to respondent-Udumalpet Municipality within a week from today.

II. For the removal of the remaining parts of Fuel Station and other equipments etc., including the Service Station, the appellant/Indian Oil Corporation will have a period of six months from today, without any extension of time further and within the said period of six months, the respondent/Udumalpet Municipality will not take any coercive measures against the appellant/Indian Oil Corporation. It is made clear that no extension of time shall be granted to the appellant/Indian Oil Corporation on any ground whatsoever for the removal of the entire remaining set up of theirs from the land in question and the vacant and peaceful possession of entire premises will be handed over to the respondent/Municipality on or before 31.12.2019.

III. The appellant/Indian Oil Corporation shall clear off and pay all the arrears of lease rent or taxes if any, due from them to the respondent/Municipality without raising any dispute about that. The said payment of arrears shall also be made within a period of one week from today.

6 The writ appeals stand disposed of accordingly with the above directions. No costs. Consequently, the connected miscellaneous petitions are also closed.  
AP

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

1. The Commissioner  
Udumalpet Municipality  
Udumalpet, Tirupur District.
2. The Chief Manager  
Indian Oil Corporation Limited  
Coimbatore Divisional Office  
Indian Oil Bhavan, 8/1079, Avinashi Road  
Coimbatore 641 018.

+1cc to Mr.V.Ananthanatarajan, Advocate, SR.No.64783  
+2cc to Mr.S.Gunalan, Advocate, SR.No. 64758 & 657601

WA.Nos.2409 & 2417/2019

Kak(21/08/2019)



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