

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2019

CORAM:

THE HONOURABLE Mrs.JUSTICE P.T.ASHA

C.R.P.No.3489 of 2018 and
C.M.P.No.19592 of 2018

1. Sri Selvanayagi Bharatgas Agencies
represented by its Proprietor,
Mr.B.Kalaiselvan.
2. S.K.A.Bharatgas Agency
represented by its Partner,
Mr.T.Santhasathiaseelan.
3. Appatha Bharatgas Services
represented by its Proprietor,
Mrs.MeeraPangayarselvi.
4. Sigaram Bharatgas Agency
represented by its Partner,
Mr.Boopathi S.
5. M/s. Shri Vinayaka Bharatgas Agency
represented by its Proprietor,
T.Prabhakaran.

... Petitioners

Vs.

1. Tiruppur Taluk Consumers Welfare Council,
represented by its Secretary,
Mr.D.Sridhar.
2. Bharat Petroleum Co. Ltd, rep. by
its Territory manager (LPG),
Post Box No.1644,
Coimbatore LPG Territory,
Peelamedu, Coimbatore – 641 004.

3. Indian Oil Corporation, rep. by
the Area Manager,
Indane Area Office,
8/1079, Avinashi Road,
Coimbatore – 641 018.
 4. Hindustan Petroleum Corporation Limited,
rep. by its Regional Manager,
Kochi LPG Regional Office, HPCL Kochi,
Seaport-Airport Road, Irumbaram,
Ernakulam, Kerala – 682 030.
 5. The Distributors of BPCL,
Post Box No.1644,
Coimbatore LPG Territory,
Peelamedu, Coimbatore – 641 004.
 6. The Distributors of IOCL,
Indane Area Office,
8/1079, Avinashi Road,
Coimbatore – 641 018.
 7. The Distributors of HPCL,
Post Box No.1644,
Coimbatore LPG Territory,
Peelamedu, Coimbatore – 641 004.
- ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the proceedings dated 21.03.2018 in C.M.P.No.1 of 2018 in C.C.No.1 of 2018 on the file of the District Consumer Dispute Redressal Forum, Tirupur.

For Petitioners : Mr.T.Gowthaman

For Respondent 1 : Mr.K.Rajendra Prasad

For Respondent 3 : Mr.R.Sreedhar

For RR 2 and 4 : Mr.M.Vijayan
for M/s. King and Partridge

For RR 5, 6 and 7 : No Appearance

ORDER

The above Civil Revision Petition has been filed by the petitioners challenging the proceedings dated 21.03.2018 in C.M.P.No.1 of 2018 in C.C.No.1 of 2018 on the file of the District Consumer Dispute Redressal Forum, Tirupur.

2.The brief facts which are necessary for disposing of the civil revision petition are as follows:

2.1.The first respondent claiming to represent the Consumers of Coimbatore and Tiruppur, for getting their grievances redressed, has moved a complaint in C.C.No.1 of 2018 for the following relief:

(a) to restrain the respondents from transferring the LPG connections of the consumers of distributors to the opposite parties No.4 to 6 or any other distributor in the District, without their consent or seeking option from them;

(b) to pay a sum of Rs.3,00,000/-, as compensation for mental agony and torture caused to the consumers by the opposite parties 1 to 3;

(c) to pay a sum of Rs.10,000/- towards cost of the complaint.

2.2.It is the case of the first respondent/complainant that opposite parties No.1 to 3, by transferring the LPG connections of the consumers from Distributors of the District, without getting any consent or option from them, to some other distributors is causing inconvenience and hardship to them and therefore, the complainant has filed the above application.

2.3.It is pointed out that the distributors had set up one Radhakrishnan to move the Public Interest Litigation in W.P.(MD).No.12607 of 2017 for the issue of a Writ of Mandamus forbearing the respondents from in any manner transferring the LPG Domestic Consumers from one dealer to another, without getting the consent of the concerned consumer in writing by issuing appropriate intimations prior to such transfer. The respondents therein are also the opposite parties in the present complaint. The Division Bench of this Court, by its order dated 07.07.2017 had dismissed the writ petition with costs, on the ground that the Petroleum Companies are empowered to transfer the consumers from one distributorship to another distributorship, in case, within the jurisdiction when there are consumers more than the ceiling limit and there was no need for getting consent from the consumers in writing for such transfer.

2.4.After the dismissal of that writ petition by the Division

Bench of this Court, another writ petition has been moved by one

another distributor in W.P.No.27166 of 2017, wherein, the prayer was more or less the same as sought for in the present consumer complaint. The learned Single Judge by his order dated 16.11.2017 was pleased to dismiss the said petition.

2.5.After the dismissal of those writ petitions, the first respondent council has moved this application before the Consumer Dispute Redressal Forum at Tirupur.

3.By no stretch of imagination, the complainant will fall within the definition of a "consumer" and nor will the complaint fall within the jurisdiction of a "consumer complaint". The consumer would be aggrieved only if its demand for supply of LPG gas has not been adhered to and not when there is a policy decision taken by the companies to shift the consumer from one distributor to another distributor or new distributor, which is purely a decision taken by the company. The consumer has no role to play in such decision making processes. It is very clear that the Council has been set up by the distributors to move the "consumer complaint". The present complaint is an abuse of process of law, more particularly, when the Division Bench of this Court as well as the learned Single Judge have passed orders, dismissing all the writ petitions which have questioned this policy decision.

4. When the matter is taken up for hearing, this morning, the matter was passed over and it was made clear that the same would be taken up for arguments at 2.15 p.m. and when the matter was called at 2.15 p.m., the first respondent sought time for arguments stating that the counsel was hospitalized, which was not the statement made in the morning, when the matter was passed over. Considering the fact that the complaint is an abuse of process, this Court proceeded to hear the arguments of the petitioner and the other respondents.

5. In view of the above, the "consumer complaint" in C.C.No.1 of 2018 is therefore struck off from the file of the District Consumer Redressal Forum of Tirupur.

Accordingly, this civil revision petition is allowed. No costs. Connected M.P. is closed.

सत्यमेव जयते

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Index: Yes / No

Internet: Yes/No

Speaking/Non-speaking order

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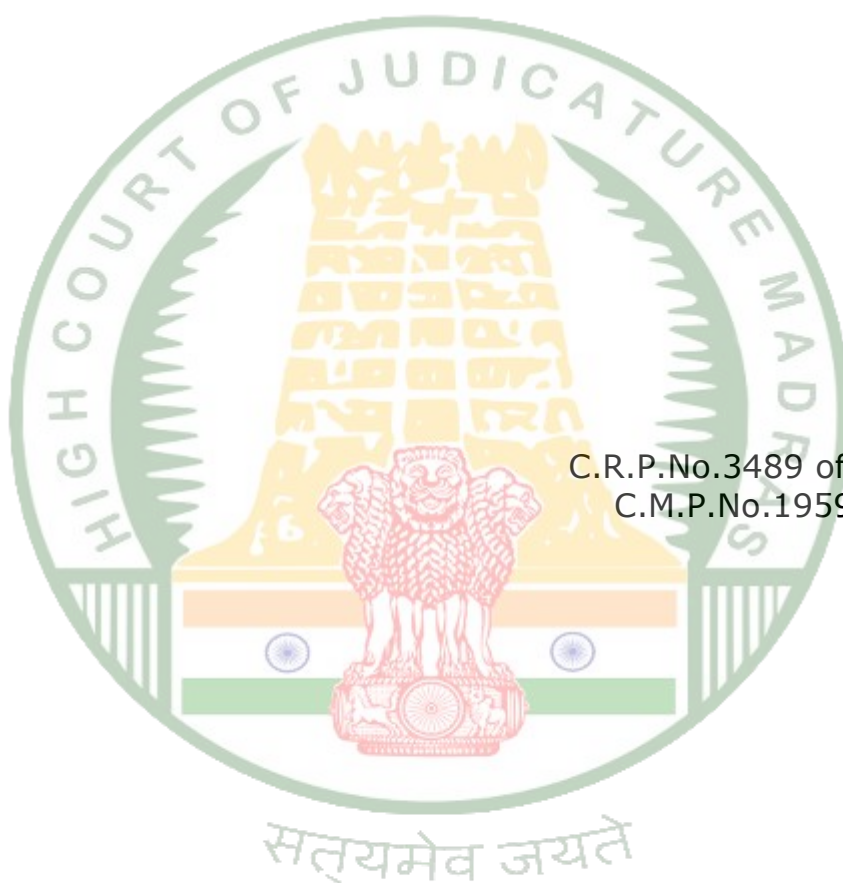
The District Consumer Dispute Redressal Forum,
Tirupur.



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P.T.ASHA, J.

nsd



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