

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2020

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

A.S.No.589 of 2016
and
C.M.P.Nos.15952 & 15634 of 2016
and
C.M.P.No.19361 of 2019

M/s.Indian Oil Corporation Limited,
Represented by its Senior Manager(RS)
And Power Agent,
Mr.S.Gunasekaran,
500, Anna Salai, Teynampet,
Chennai - 600 018.Appellant

Vs.

1.Mr.V.Sudhakar
2.M/s.Friendly Service Co.
Represented by its Managing Partner,
Mr.V.Sudhakar,
Old No.94, New No.76, G.N.Chetty Road,
(Vani Mahal Circle)
T.Nagar, Chennai -17.Respondents

Prayer: Appeal Suit filed under Section 96 of the Code of Civil Procedure Read with 1 of the C.P.C., against the judgment and decree dated 18.03.2016 passed in O.S.No.12780 of 2010 on the file of the learned II Additional City Civil Court, Chennai.

For Appellant : Mr.Vijay
For AAV Partners

For Respondents: M/s.Chitra Sampath, Senior counsel
For Mr.T.S.Baskaran[For R1]
No appearance for R2

JUDGMENT

The appeal suit is directed against the judgment and decree dated 18.03.2016 passed in O.S.No.12780 of 2010.

2. The plaintiff is the appellant in the appeal suit. The plaintiff/Indian Oil Corporation instituted a suit for Mandatory injunction, directing the first defendant to renew the lease for the "Leased Premises" morefully mentioned in the Schedule hereunder for a period of 20 years with effect from 13.04.2006 subject to payment of lease rentals amounting to Rs.5500/- per month on terms and conditions contained in the Lease deed dated 29.06.1987 and for a Permanent injunction.

3. The respondent defendants contested the suit. Both the defendants filed written statements, opposing the plaint on the ground that the plaintiff is not entitled for the relief as such sought for.

4. The trial Court framed the issues, as to whether the plaintiff is entitled for mandatory injunction as prayed for; whether the plaintiff is entitled for permanent injunction as prayed for; whether the 2nd defendant is a necessary party in the suit and to what relief.

5. The facts in nutshell as stated are that the 1st defendant is the land owner and the 2nd defendant was a distributor appointed by the plaintiff/Indian Oil Corporation. Initially, the 1st defendant land owner entered into a lease agreement with the 2nd defendant for the purpose of running Petrol Bunk. By virtue of the said lease agreement, the 2nd respondent was running the Petrol Bunk. Under those circumstances, the suit was instituted by the Indian Oil Corporation, in view of the fact that the lease period expired during the year 2006 i.e., on 12.04.2006 and therefore, the Indian Oil Corporation cannot continue the dealership with the 2nd defendant M/s.Friendly Services Limited.

6. In view of the fact that the lease period with the first defendant land owner expired and the second defendant is not entitled to continue in the property belongs to the 1st defendant, then the Indian Oil Corporation had chosen to institute the suit for Mandatory Injunction and Permanent Injunction. The trial Court considered the issues and dismissed the suit.

7. The appeal suit was instituted in the year 2016 and the learned Senior counsel appearing on behalf of the 1st respondent made a submission that all the facts and circumstances narrated in the judgment of the trial Court become unnecessary in view of the fact that the lease period expired long back and the 2nd respondent is continuing in the premises only by virtue of the interim order granted by this Court during the year 2016 and in all other respects, the facts and the issues are not necessary.

8. The learned counsel appearing on behalf of the appellant/Indian Oil Corporation made a submission that certain proposals are pending for renewal of the recitement of the dealership and those files are pending as of now.

9. However, it is brought to the notice of this Court that the recitement had already been approved by the competent authorities of the Indian Oil Corporation and they are in the process of entering into an agreement in respect of the property, which is already identified by the Indian Oil Corporation.

10. The learned Senior counsel appearing on behalf of the 1st respondent made a submission that the 1st respondent is unable to get any rental benefit for the past about 14 years on account of the pendency of the suit and even now, they are not getting any benefit and by virtue of the interim order, the appellant as well as the 2nd respondent are allowed to continue to run the retail outlet.

11. This being the admitted facts, the learned Senior counsel referred the findings of the trial Court in Paragraph 27, which is relevant with reference to the fact that the renewal of lease is not automatic and further, now the learned counsel for the appellant brought to the notice of this Court that efforts had been taken for recitement and another property was identified and the authorities are in the process of entering into a lease agreement. This being the facts now established, this Court is of an opinion that continuance of the interim order caused certain hardship to the 1st respondent land owner and he is not in a position to recover rent either from the appellant or from the 2nd respondent.

12. Perusal of the entire findings of the trial Court, this Court is of the considered opinion that during the relevant point of time, the trial Court considered the issues and arrived a finding. However, the subsequent developments occurred on account of the various facts and circumstances resulted in denial of rent to the 1st respondent and this being the factum established, this Court is of the considered opinion that the other grounds raised in the appeal suit deserves no merit consideration as the lease period expired in the year 2006 and the Indian Oil Corporation also had taken efforts for recitement and regarding renewal also, there is no such clear orders.

13. In the absence of all these factors, consideration of the grounds raised in the appeal suit is unnecessary and accordingly, the judgment and decree passed by the trial Court in O.S.No.12780 of 2010 dated 18.03.2016 is confirmed.

14. Consequently, the appeal suit in A.S.No.589 of 2016 stands dismissed. No costs. Connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1.The II Additional
City Civil Court, Chennai.

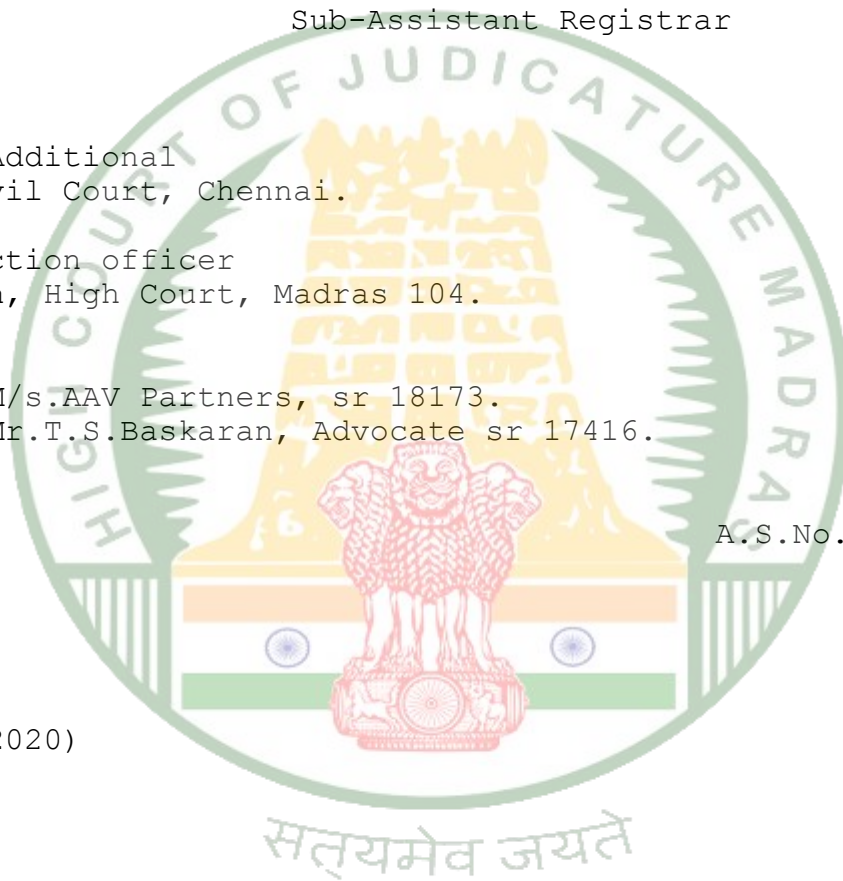
2. The Section officer
VR Section, High Court, Madras 104.

+1 CC to M/s.AAV Partners, sr 18173.

+1 CC to Mr.T.S.Baskaran, Advocate sr 17416.

A.S.No.589 of 2016

RP(CO)
SP(10/03/2020)



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