

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2466 of 2016

M/s.Hindustan Petroleum Corporation Ltd.,
HP House, 1/3 Big Bazaar Street,
Coimbatore - 641 001.

..Appellant/1st Defendant/
Appellant

Versus

1. Mahitha Vijayakumar

..1st Respondent/Plaintiff/
1st Respondent

2. Maruthi Super Services,
Rep. By its partner G.R.Raghunath,
Carrying on business at No.453,
Cross Cut Road,
Coimbatore - 12.

..2nd Respondent/2nd Defendant/
2nd Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Order 43 Rule 1 CPC read with Section 9A of Tamil Nadu City Tenants Protection Act, 1921 (Act 2 of 1980) against the order and decree dated 24.08.2016 made in I.A.No.463 of 2014 in O.S.No.342 of 2014 on the file of learned III Additional District and Sessions Judge Court, Coimbatore.

For Appellant : Mr.O.R.Santhanakrishnan

For R1 : Mr.D.Ravichander

For R2 : Ms.Mahamandra Rajalakshmi

JUDGMENT

Heard the learned counsel appearing for the parties through Video Conferencing, due to COVID-19 pandemic.

2. This Civil Miscellaneous Appeal is directed against impugned order and decree dated 24.08.2016 passed in I.A.No.463 of 2014 in O.S.No.342 of 2014 by the learned III Additional District and Sessions Judge Court, Coimbatore, wherein it is held that actual physical possession of the petition mentioned property by the appellant is a sine quo non for maintaining an application under Section 9 of the Tamil Nadu City Tenants Protection Act. However, as the appellant was not in actual physical possession of the suit property, learned Court below dismissed the I.A.No.463 of 2014 filed by the appellant on 24.08.2016. Aggrieved by the same, the present appeal has been filed.

3. Mr.O.R.Santhanakrishnan, learned counsel for the appellant has brought to the notice of this Court a decision of the Hon'ble Apex Court in the case of Bharat Petroleum Corporation Limited and others Vs. R.Chandramouleeswaran and others [2020 SCC Online SC 85], whereby it is held that Petroleum Companies would not be entitled to the benefit and rights under the Act unless they are in actual physical possession of the building constructed by them and in other words, in case the Petroleum Companies have let out or sub-let the building or given it to third parties, including dealers or licensees, they would not be entitled to protection and benefit under the Act. For better appreciation, paragraph No.22 thereof is extracted below:-

"22. Recording the aforesaid position, we dismiss the present appeals by the appellant, that is, the three petroleum companies, and uphold the orders passed by the High Court that the appellant tenants would not be entitled to the benefit and rights under the Act unless they are in actual physical possession of the building constructed by them. In other words, in case the appellants have let out or sub-let the building or given it to third parties, including dealers or licensees, they would not be entitled to protection and benefit under the Act."

4. Since paragraph No.22 extracted above clearly makes the position very clear that the appellant, who is not in physical possession, is not entitled to maintain the application under Section 9 of the Tamil Nadu City Tenants Protection Act, the

impugned order passed by the learned Court below rejecting their application filed under Section 9 of the Act cannot be interfered with. Hence, the Civil Miscellaneous Appeal stands dismissed. No Costs.

Sd/-

Asst.Registrar (CJ Conf.)

/true copy/

Sub Asst. Registrar

To

III Additional District and Sessions Judge Court,
Coimbatore.

+1cc to Mr.P.Dinesh Kumar, Advocate, Sr.No.34334

+1cc to Mr.D.Ravichander, Advocate, Sr.No.34590

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