

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 31ST DAY OF AUGUST 2020

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

A.No.123 of 2014
in
C.S.No.269 of 2011

Bharat Petroleum Corporation Limited,
having its Registered Office at
Bharat Bhavan, No.4 & 6,
Currimbhoy Road,
Ballard Estate, PB No.688,
Mumbai 400 001.

and having its place of business at
Tondiarpet Installation,
No.35, Vaidyanathan Street,
Tondiarpet, Chennai 600 081
and Represented by its Territory Manager,
Mr.S.Srikanth

...Plaintiff

Versus

Sri A.Sreekanth
Sole Proprietor
Bharat Petroleum Agency
RS No.32/2 Pondy Cuddalore Main Road,
Kirumambakkam
Pondicherry 607 402.

..Defendant

A.No.123 of 2014:

A.Sreekanth
Sole Proprietor
Bharat Petroleum Agency
RS.No.32/2, Pondy Cuddalore Main Road,
Kirumambakkam
Pondicherry 607 402.

..Applicant/ Defendant

Versus

Bharat Petroleum Corporation Limited,
having its Registered Office at
Bharat Bhavan, No.4 & 6,
Currimbhoy Road,
Ballard Estate, PB No.688,
Mumbai 400 001.

and having its place of business at
Tondiarpet Installation,
No.35, Vaidyanathan Street,
Tondiarpet, Chennai 600 081
and Represented by its Territory Manager,
Mr.S.Srikanth

...Respondent/Plaintiff

Application praying that this Hon'ble Court be pleased to raise the attachment ordered on 05/09/2013 in A.No.2141 of 2011 in C.S.No.269 of 2011 and dismiss the above application.

This Application has been filed by the defendant in the suit seeking to raise the order of attachment ordered on 05.09.2013 in A.No. 2141 of 2011.

2. The suit in C.S.No. 269 of 2011 had been filed by the plaintiff,

seeking a Judgment and Decree against the defendant for a sum of

<https://hcservices.ecourts.gov.in/hcservices/>

Rs.8,24,67,463.69/- together with interest and also for the costs of the suit.

3. When the suit was instituted, the plaintiff had also filed A.No. 2141 of 2011. In the said application, specific reference was given to six tanker lorries, whose registration numbers were also mentioned in the Judges summons to the application and the plaintiff sought a prayer that those lorries should be attached before Judgment as a security for the suit claim.

4. A learned Single Judge of this Court, had, on appreciating the case of the plaintiff, by order dated 05.09.2013, had stated that on 12.04.2011 an order had been passed directing the defendant herein to furnish security to the extent of the suit claim and since, counsel had entered appearance and had been seeking time on one pretext or the other, and since, no security had been furnished, had directed attachment before Judgment of the said six lorries, whose details, to repeat had been mentioned in the Judges summons to the application.

5. In the present application, A.No. 123 of 2014, the defendant in his affidavit had stated that two of the tanker lorries had been sold to one D.Raja on 01.03.2011 and 14.02.2011 and two other tanker lorries had been sold long back and mutation of the documents had taken place on 01.06.2011 and the fifth tanker lorry had also been sold and mutation of the

documents had taken place on 10.08.2010 and the sixth tanker lorry had also been sold and mutation of documents had taken place on 17.05.2011. It is therefore pointed out by the learned counsel that these tanker lorries had been sold even prior to the order of attachment. However, it must be pointed out that notice directing furnishing security was ordered on 12.04.2011 and therefore, it would be a mute question whether the tanker lorries had been sold after receipt of such notice from the Court or not. That is an issue, kept open and I am not entering into any discussion on the same as on date. However, since the tanker lorries have been already sold as stated in the affidavit of the defendant, nothing further survives in the present application.

6. The learned counsel for the defendant however stated that the Court should pass a specific order raising the attachment. If such an order is to be pass, then it would require rendering a finding whether the defendant is due and liable for payment of any amount to the plaintiff. That is an issue which can be decided only on the basis of the evidence to be adduced by both the parties. Therefore, the A.No. 123 of 2014 is closed simplicitor without stating whether the orders of attachment raised or not.

7. The learned counsel for the defendant would further submit that the said lorries are now in the possession of third parties and therefore attachment in their hands would be possible. That is a hypothetical issue as on date and it is for the plaintiff to work out remedies in accordance with the order dated 05.09.2013.

8. A.No. 123 of 2014 is therefore closed. No order as to costs.

Sd/-C.V.K.J
31/08/2020

// Certified to be true copy//
Dated at Madras this day of 2020.

Court Officer(O.S.)

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Jj 31/08/20

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