IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33522 of 2014

Mohanakrishnan S/o.Ramadoss ..Petitioner

-vs-

1.The Executive Officer,
Sri Athithulyanatheeswarar Temple,
Arakandanallur, Tirukoilur Taluk,
Villupuram District.

2.The Deputy Commissioner,
HR&CE Departments,
Trichy District.

3.The Regional Manager,
Bharath Petroleum Corporation,
Tondiarpet, Chennai-81.

4.T.Balan

5.M.Kothandaraman ..Respondents

[RR4 and 5 are impleaded as per order dated 08.08.2019 in W.M.P.No.20451 of 2019 in W.P.No.33522 of 2019]

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to forbear the respondents from interfering with the right of the petitioner to lease out the property to Mrs.Seethalakshmi or her authorized agent for setting up the "Bharath Petroleum Corporation" at Survey No.9/10, Arakandanur Village, Villupuram.

For Petitioner : Mr.V.Raghavachari

For Respondents: R1- Mr.N.Naganathan

: R2 – Mr.D.Venkateshan
Govt Advocate

: R3 – Mr.O.R.Santhanakrishnan

: RR4 & 5 – Mr.P.Paramasivadoss

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ORDER

Heard Mr.V.Raghavachari, learned counsel for the petitioner, Mr.N.Naganathan, learned counsel for the first respondent, Mr.D.Venkateshan, learned counsel for the second respondent, Mr.O.R.Santhanakrishnan, learned counsel for the third respondent and Mr.P.Paramasivadoss, learned counsel for respondents 4 and 5.

2.This writ petition has been filed to forbear the respondents from interfering with the right of the petitioner to lease out the property for the purpose of establishing a petroleum outlet by Bharath Petroleum Corporation Limited (BPCL).

3.The reason for the petitioner approaching this Court by filing this writ petition is on account of the fact that the first respondent-Temple has claimed title over the property. The petitioner's ancestor filed a suit in O.S.No.321 of 1974 for declaration of their right to be in possession of the suit property. The suit was decreed as prayed for by judgment and decree dated 14.07.1976. The first respondent-Temple preferred appeal before this Court in A.S.No.747 of 1985 and the HR & CE Department, through its Deputy Commissioner, filed A.S.No.1012 of 1986. The appeals were allowed partly by judgment dated 18.08.2011 and the judgment of the Trial Court was reversed and the suit filed by the petitioner in O.S.No.175 of 1982, dated 22.10.1984, was dismissed. Aggrieved by the same, the petitioner filed Special Leave Petitions in S.L.P.(C) Nos.17831-17833 of 2012 before the Hon'ble Supreme Court and an order of status-quo, as on 05.09.2014, the date of the order, was directed to remain in force.

4.It is state that the special leave petitions are still pending. While the situation stood thus, the petitioner entered into a lease agreement with BPCL on 15.06.2016. BPCL pleads ignorance about the present litigation and pursuant to the interim orders granted in this writ petition dated 26.11.2015, the lease amount is being deposited to the first respondent-Temple.

5.Considering the fact that the civil dispute is now pending before the Hon'ble Supreme Court and an order of status-quo has been granted and after obtaining the order, the petitioner has entered into the lease agreement with BPCL, taking note of the fact that BPCL is running a petroleum outlet, which will be a public utility service, this Court is of the view that the present position need not be disturbed and the parties may await the outcome of the special leave petitions pending before the Hon'ble Supreme Court. Further, the interest of the first

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respondent-Temple has been sufficiently safeguarded, because the lease rents are deposited to the first respondent-Temple.

6.The learned counsel appearing for BPCL submitted that as per the procedure of the third respondent-Corporation, the lease rent has to be paid through online mode for which, BPCL has requested the first respondent-Temple to give necessary particulars, which are yet to be furnished. Further, it is seen that as per the lease deed, which is to remain in force till 31.05.2045, the rental per month for the period from 01.06.2016 to 31.05.2021 is Rs.5,000/- per month.

7.Considering the fact that BPCL entered into the lease agreement after the order of status-quo, which was obtained by the petitioner, this Court is of the view that the interest of the Temple will be best protected, if there is a reasonable increase made to the rental.

8.Accordingly, till the disposal of the special leave petitions before the Hon'ble Supreme Court, BPCL shall pay the rental amount fixed in the agreement together with a sum of Rs.15,000/- (Rupees Fifteen Thousand only) per month. The parties shall abide by the result of the special leave petitions.

9.In the result, this writ petition stands disposed of by directing the first respondent to furnish all the required particulars for online transaction of the lease rent to BPCL within a period of two weeks' from the date of receipt of a copy of this order. Needless to state that as soon as the particulars are furnished, BPCL shall clear the entire arrears. The enhanced lease rental fixed by this Court will apply from the month of April, 2020. No costs.q

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

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To

1.The Executive Officer,
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2.The Deputy Commissioner,
HR&CE Departments,
Trichy District.

3.The Regional Manager,
Bharath Petroleum Corporation,
Tondiarpet, Chennai-81.

+1cc to Mr.N.Naganathan, Advocate, S.R.No.22401

+1cc to Spl Government Pleader(HR & CE), S.R.No.22792
+1cc to Mr.R.Santhanakrishnan, Advocate Sr.26352 (07/08/2020)

W.P.No.33522 of 2014

MRJK(CO)
RN(04/06/2020)

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