

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 679 of 2021

- M/s Shyam Service Station A Partnership Firm Duly, Registered Under The Relevant Provisions Of The Partnership Act, Through Its Partner Shri Prakash Joshi, Son Of Shri Banwari Lal Joshi, Aged About 49 Years, Resident Of Civil Lines, G.E. Road, Raipur Chhattisgarh

---- Petitioner

Versus

1. M/s Hindustan Petroleum Corporation Limited A Government Of India Enterprise, Through Its Chairman, Having Its Registered Office At 17, Jamshed Ji Tata Road, Mumbai 400020 (Maharashtra) Regional Office At Madina Manzil, 2nd Floor, Medical College Road, Above Vijaya Bank, Raipur Chhattisgarh
2. Manishraj Singhanian S/o Shri Rajkamal Singhanian Aged About 44 Years R/o Singhanian House, Khairagarh Bada, Opp. Daba Buildings Raipur Chhattisgarh.
3. Rishiraj Singhanian S/o Shri Rajkamal Singhanian Aged About 41 Years R/o Singhanian House, Khairagarh Bada, Opp. Daba Buildings Raipur Chhattisgarh
4. Rohit Kumar Singhanian S/o Shri Rajkamal Singhanian Aged About 40 Years R/o Singhanian House, Khairagarh Bada, Opp. Daba Buildings Raipur Chhattisgarh.

---- Respondents

For petitioner : Mr. B.P. Sharma & Ms. Anuja Sharma, Advocates.
For Respondent No. 1 : Mr. Ali Asgar, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

11.02.2021

Heard.

1. In the present writ petition, the following reliefs have been sought for:-

“10.1 A writ and/ or an order in the nature of appropriate writ do issue calling for the records from the respondent authorities pertaining to the petitioner's case for its perusal, if deem fit in the facts and circumstances of the

case.

10.2 A writ and/ or order in the nature of appropriate do issue calling upon respondent No.1 to show cause under what authority of law it has given undertaking vide application dated 11.01.2021 before the Executing Court for removal of the structures constructed by the petitioner and also machines etc. and tanks lying underneath and after hearing the parties in the matter, pass appropriate orders so as to protect interest of the petitioner and also his fundamental, constitutional and human rights including right to livelihood in the facts and circumstances of the case.

10.3 A writ and/ or an order in the nature of appropriate do issue allowing the petitioner sufficient time so that the petitioner may be able to get the final adjudication from the Hon'ble Apex Court as the same is pending consideration under Diary No. 725/2021 and of which hearing is not possible on account of effect of pandemic Covid-19 as no physical hearing in the Hon'ble Apex Court is taking place and in the facts and circumstances of the case.

10.4 Cost of the proceedings.

10.5 Any other writs and directions that may be deemed fit and just in the facts & circumstances of case.”

2. Learned counsel for the petitioner submits that the petitioner is running a petrol outlet at G.E. Road Raipur Plot No. 17/3 admeasuring area 10,000 sq.ft. for which a litigation was filed by the land owner to vacate the same. The trial Court decreed the suit for ejectment in favour of the landlord. Against the said judgment and decree, both Hindustan Petroleum Corporation and Shyam Service Station had filed a Second Appeal which was decided by this Court on 24.08.2020 (Annexure P/1)

wherein the order of the judgment and decree of the trial Court was affirmed. He submits that thereafter the lesser to the petitioner i.e. Hindustan Petroleum Corporation did not file any appeal before the Supreme Court and in the execution proceeding of the ejectment, statement has been made by the Hindustan Petroleum Corporation that they would be ready to vacate and handover the possession of the land to the decree holder and six months' time was sought for the same by Annexure P/7 dated 11.01.2021. He further submits that the Principal i.e. Hindustan Petroleum Corporation has acted against the interest of the agent i.e. the petitioner though the petitioner has raised the superstructure over the lease hold land. It is stated that the company could not have made such statement to vacate the land. He also refers to Section 14 of the Chhattisgarh Accommodation Control Act 1961 and would submit that it is with the consent of the Hindustan Petroleum Corporation, the sub-lease was given to the petitioner.

3. Learned counsel for the respondent No. 1 – Hindustan Petroleum Corporation submits that the dealer-Shyam Service Station and the Principal- Hindustan Petroleum Corporation are sailing on the same footing and against this, when the second appeal was lodged whereby decree of ejectment was affirmed, the respondent company have chosen not to file an appeal before the Supreme Court and the appeal filed by the Shyam Service Station (the petitioner herein) has been dismissed. Therefore under these circumstances, the submission in the execution has been made as the respondent company- Hindustan Petroleum Corporation is a Government undertaking company and certain formalities are required.

4. After perusal of the documents filed along with the writ petition, the issue about the ejectment has been affirmed in the judgment passed by this Court on 24.08.2020 (Annexure P/1) in the Second Appeal filed by both Hindustan Petroleum Corporation and Shyam Service Station. Against the judgment of the second appeal, the SLP was preferred by the petitioner before the Supreme Court and that too have been dismissed by the Hon'ble Supreme Court on 07.12.2020. Therefore the issue has already been concluded with respect to ejectment. In the garb of projection made by the petitioner, if the issue is reopened again, then it would amount to overreach the judgment rendered by the trial Court which is affirmed in the Second Appeal and also affirmed by the Hon'ble Supreme Court whereby judgment and decree of ejectment is affirmed. On the submission made during execution there cannot be *de novo* trial again as the issue is finally adjudicated. Therefore, the issue about the ejectment has been settled and sealed and no relief can be granted to the petitioner in this writ petition against execution proceeding.

5. Accordingly, the writ petition sans merit and is hereby dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE