



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.06.2021

CORAM

THE HON'BLE MR. JUSTICE S.S.SUNDAR
TR CMP Nos.271 & 272 of 2021 and
CMP Nos.7114 & 7121 of 2021

TR CMP No.271 of 2021

1. Bharat Petroleum Corporation Ltd.,
Rep. by its General Manager,
No.35, Vaidiya Nathan Street,
Tondiarpet, Chennai - 600 081.
2. The Chief Divisional Manager,
Bharat Petroleum Corporation Ltd.,
No.1, Ranganathan Gardens 11th Main Road,
Anna Nagar, Chennai - 600 040.
3. Territory Manager (Retail),
Bharat Petroleum Corporation Ltd.,
No.35, Vaidiya Nathan Street,
Tondiarpet, Chennai - 600 081. ..Petitioners/Petitioners

Vs

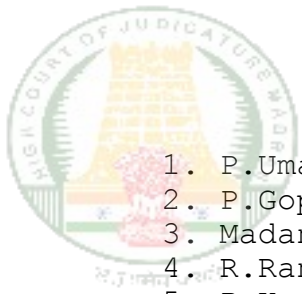
1. P.Umapathy
2. P.Gopikrishnan
3. Madana Gopal
4. R.Rangan
5. P.Kumar
P.Anandakumar (deceased)
6. A.Aruna
7. A.Monica ... Respondents/Respondents

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, pleaded to withdraw O.S.No.50 of 2015 pending on the file of the Subordinate Court, Ponneri and transfer the suits to the file of XXI Additional City Civil Court, Chennai to be tried along with O.S.No.6100 of 2019 pending therein.

TR CMP No.272 of 2021

Bharat Petroleum Corporation Ltd.,
Rep. by its Territory Manager (Retail),
No.35, Vaidiya Nathan Street,
Tondiarpet, Chennai - 600 081. ..Petitioner

Vs



1. P.Umapathy
2. P.Gopikrishnan
3. Madana Gopal
4. R.Rangan
5. P.Kumar
6. P.Anandakumar (deceased)
6. P.Murthy
7. P.Lakshmi
8. A.Aruna
9. A.Monica

... Respondents

Prayer: Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure, pleaded to order for withdrawing O.S.No.114 of 2020 pending on the file of the Principal District Court, Thiruvallur and transfer the suits to the file of XXI Additional City Civil Court, Chennai to be tried along with O.S.No.6100 of 2019 pending therein.

For Petitioners : Mr.M.S.Krishnan, Senior counsel for
in both cases M/s.Sarvabhauman Associates

For Respondents : Mr.V.Selvaraj, Senior Counsel for
in both cases Mr.V.Ravi for Respondents
in Tr.CMP No.271 of 2021 and
for R1 to R5, R8 & R9
in Tr.CMP No.272 of 2021
R6-Not ready in notice
R7-Returned in Tr.CMP 272 of 2021

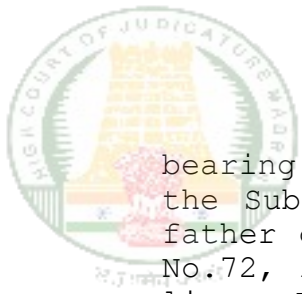
COMMON ORDER

These Transfer Civil Miscellaneous Petitions have been filed for withdrawing O.S.No.50 of 2015 on the file of the Subordinate Court, Ponneri and O.S.No.114 of 2020 on the file of the Principal District Court, Thiruvallur and transfer the suits to the file of XXI Additional City Civil Court, Chennai to be tried along with O.S.No.6100 of 2019 pending therein.

2. I have heard Mr.M.S.Krishnan, learned Senior counsel appearing for M/s.Sarvabhauman Associates and Mr.V.Selvaraj, learned Senior counsel appearing for Mr.V.Ravi for respondents.

3. The brief facts that are necessary and leading to the above transfer Civil Miscellaneous Petitions are as follows:

The petitioners in these Transfer Civil Miscellaneous Petitions are M/s.BPCL, a Government Oil Company and its Officers. These Transfer petitions arose out of three suits which are pending before the three different Courts. It is admitted that the first petitioner's predecessor in interest, M/.Burma Shell Company, entered into a registered Lease Deed



bearing Document No.444 of 1963, dated 18.10.1963 on the file of the Sub Registrar Office, Sembium. One S.K.Kanniah Naidu, grand father of respondent lessed out the property, situated in Survey No.72, in Naravarikuppam Village, which is the subject matter of lis. It is admitted that the plot measuring of an extent of 19380sq.ft which is subject matter of the dispute was originally leased out to M/s.Burmah Shell Company Limited for a period of 30 years w.e.f., 01.11.1963 for the purpose of retail outlet on a quarterly rent of Rs.600/- for the first 10 years. The rent agreed was Rs.900/- per quarter for the next ten years and rent agreed for last 10 years was Rs.1,200/- per quarter. Now the property is devolved on the defendants in the suit, who are the legal heirs of the original lessor.

4. For the sake of convenience, the respondents and the petitioners in these Transfer Civil Miscellaneous Petitions are hereinafter called as Landlords and Lessees respectively. It is admitted that the petitioners herein are the successors in interest of M/s.Burmah Shell Company Limited.

5. The Landlords/respondents filed a suit originally on the Original side of this Court in C.S.No.626 of 2013 for recovery of a sum of Rs.27,14,000/- towards damages for use and occupation of the demised premises from 01.01.2012 to 31.12.2014 and for recovery of further damages at the rate of Rs.4,00,000/- per month till the property is handed over by the petitioners to the respondents. This suit in C.S.No.626 of 2013 was later transferred and is now pending on the file of the XXI Additional City Civil Court, Allikulam and renumbered as O.S.No.6100 of 2019.

6. The Landlords / respondents filed another suit in O.S.No.50 of 2015 on the file of the Subordinate Court, Ponneri for recovery of possession of the demised property. The third suit was filed by the Lessees/petitioners in O.S.No.114 of 2020 on the file of the District Court, Thiruvallur for specific performance of a letter minuted by the respondents on 23.01.2020 and for directing the defendants to execute a Lease Deed as agreed in the said Minutes. All the three suits relate to the same property, which is described as a property measuring an extent of 19,380 sq.ft. or thereabouts in S.No.72 in Naravarikuppam Village in the Registration Sub District of Sembium (Registration District Madras). There is no dispute with regard to identity of property and the lease deed in 1963. The learned Senior counsel appearing for the Lessees/petitioners submitted that the subject matter in all the three cases is one and the same and there are common issues to be decided.

7. The learned Senior counsel further submitted that it is also convenient for all the parties to go for joint trial of all



the three suits to minimize the time and to avoid multiplicity of proceedings as well as conflicting decisions. The learned Senior Counsel appearing for the Lessees/petitioners in all these cases further submitted that the separate trial of three suits would only result in conflicting decisions apart from causing serious prejudice and inconvenience to both sides.

8. The learned Senior counsel appearing for the Landlords/respondents however relied upon certain facts to impress this Court about the conduct of the Lessees/petitioners in dragging on the proceedings. However, he too agreed that the relief sought for in three suits are interlinked. The learned counsel for the respondents though wanted early disposal of all the matters, expressed the grievances of the respondents with reference to the particular suit where the respondents have filed the petition in I.A.No.2 of 2021 under Order VII Rule 11 of Code of Civil Procedure to reject the plaint. By referring to the suit in O.S.No.114 of 2020 which is now pending before the Principal District Court, Thiruvallur, the learned counsel appearing for the Landlords / respondents submitted that the suit itself is not maintainable as the Lessees/petitioners seek enforcement of an agreement which according to them, was concluded in 2012. In other words, the learned counsel pointed out that the suit filed by the Lessees/petitioners in 2020 is barred by Limitation and that therefore, they have filed a petition to reject the plaint under Order VII rule 11 of the Code of Civil Procedure. When the counsel for the Landlords/respondents states that the only objection to transfer of three suits to one place is by citing the pendency of the application under Order VII Rule 11 of the Code of Civil Procedure, this Court suggested that all the three suits can be transferred to one place and that the rights of the Landlords/respondents will be well protected if a direction for early disposal of the application filed by the respondents under Order VII Rule 11 of the Code of Civil Procedure is also given along with a further direction, which depends upon the outcome of the petition for rejection of the plaint.

9. The counsel appearing for the petitioners also agreed for the same and requested that there may be a time schedule not only for the disposal of the application filed under Order VII Rule 11 of the Code of Civil Procedure , but also for disposal of all the three suits.

10. Considering the arguments and grievances expressed by both the parties in all the three suits and keeping in mind that the parties have agreed to transfer all the suits to the District Court, Thiruvallur, this Court is inclined to dispose of both the Transfer Civil Miscellaneous Petitions with the following directions:



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- i. All the three suits namely O.S.No.50 of 2015 on the file of the Subordinate Court, Ponneri and O.S.No.114 of 2020, on the file of the Principal District Court, Thiruvallur and O.S.No.6100 of 2019 on the file of XXI Additional City Civil Court, Allikulam are withdrawn and transferred to the District Court, Thiruvallur.
- ii. The learned District Judge, Thiruvallur is directed to dispose of the application filed under Order VII Rule 11 of the Code of Civil Procedure in I.A.No.2 of 2021 in O.S.No.144 of 2020 by the respondents herein, after affording an opportunity of hearing to both the parties, and pass appropriate final order independently in accordance with law, within a period of four weeks from the date of receipt of a copy of this order;
- iii. In case the application filed by the respondents herein in I.A.No.2 of 2021 is dismissed, the learned District Judge, Thiruvallur shall go for a joint trial and dispose of all the suits namely O.S.No.50 of 2015, O.S.No.114 of 2020 and O.S.No.6100 of 2019 which are now transferred to the District Court, Thiruvallur together and dispose of the same by a common Judgment, within a period of six months after the disposal of the application in I.A.No.2 of 2021;
- iv. It is open to the parties to agitate further if the order in I.A.No.2 of 2021 goes against any one of them. However, subject to appeal or revision that may be filed against an order in I.A.No.2 of 2021, the parties shall go for joint trial of all the three suits or two suits, as the case may be, together, so that, there will not be conflicting decisions;

Consequently, connected miscellaneous petitions are closed.
No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vum
To

1. The Subordinate Court, Ponneri.
2. The Principal District Court, Thiruvallur.
3. The XXI Additional City Civil Court, Allikkulam.
4. The District Court, Thiruvallur.

+1CC to M/s.Sarvabhauman Associates, Advocate SR.No.29446

TR CMP Nos.271 & 272 of 2021
and CMP Nos.7114 & 7121 of 2021

SMI (CO)
B.VC (18/08/2021)