

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.1641 of 2019

and

C.M.P. No.13983 & 10737 of 2019

The Commissioner,
Udumalpet Municipality,
Udumalpet, Tiruppur District.

... Petitioner

Vs.

Bharat Petroleum Corporation Ltd.,
Rep. By its Territory Manager (Retail)
Shri. V. Arul Muthunathan,
Having Office at Irugur Top Installation,
Ravathur, Coimbatore – 641 103.

... Respondent

Prayer: This Civil Revision Petition filed under Article 227 constitution of India seeking for to set aside the fair and decreetal order dated 03.04.2019 of the Learned District Munsif, Udumalpet, passed in I.A. No.800 of 2019 in O.S. No.70 of 2019.

For Petitioner ... Mr.Arumugam
(For M/s. A. S.Thambuswamy)
For Respondent ... Mr. V. Anantha Natarajan

ORDER

This Civil Revision Petition has been filed under Article 227 constitution of India seeking for to set aside the fair and decreetal order dated 03.04.2019 of the Learned District Munsif, Udumalpet, passed in I.A. No.800 of 2019 in O.S. No.70 of 2019.

2. The case of the petitioner is that the plaintiff/respondent herein has filed O.S. No.70 of 2019 on the file of the District Munsif, Udumalpet, against the defendant/petitioner herein restraining them from interfering with the peaceful enjoyment and possession of the schedule mentioned property without following due process of law. Thereafter, the plaintiff/respondent herein has filed I.A. No.667 of 2019 on its file praying to grant a temporary injunction restraining the defendant/petitioner herein from disturbing the peaceful enjoyment and possession of the Schedule mentioned property without following due process of law during the pendency of the suit. When the I.A. No.667 of 2019 was posted for filing of counter, the defendant/respondent herein

had entered into the schedule mentioned property and sealed the same. Subsequent to the above incident, the plaintiff/respondent herein has filed another I.A. No.800 of 2019 on its file seeking for a direction to the defendant/petitioner herein to de-seal the property by granting stay order till the disposal of the suit. The learned Judge after considering the oral and documentary evidence allowed the same by order dated 03.04.2019. Being aggrieved the aforesaid order, the defendant/petitioner herein has filed the present Civil Revision petition to set aside the interim stay order passed by the Court below.

3. The learned Counsel appearing for the petitioner would submit that as per the said clause(j) of the Lease Deed dated 19.01.2011, after the termination of the Lease, the lessee/-plaintiff-respondent herein has to deliver the vacant possession of the property and on the failure on the part of the lessee/plaintiff-respondent herein, the lessor/defendant-petitioner herein is entitled to re-enter the property and take possession. However, the learned Judge without considering above aspect, ordered to de-seal the said property and restricting the defendant-petitioner herein to interfere with the said property till the disposal of the suit. Since the

lease period had expired as on 31.03.2019 itself, the plaintiff-respondent herein being a Public Sector undertaking, ought to have handed over the said property under the control of the defendant-petitioner herein. In view of the interim stay and the suit is pending from the year 2019, the property in question is still on the hand of the plaintiff-respondent herein. Hence, this Court may direct the Trial Court to dispose of the O.S. No.70 of 2019 within a time frame fixed by this Court enabling the lessor-defendant-petitioner herein to take-over the possession from the lessee/plaintiff-respondent herein for the public purpose to expand the bus Terminus.

4. The learned counsel for the respondent would submit that the suit in O.S. No.70 of 2019 is pending before the District Munsif, Udumalpet from the year 2019 wherein there is no trial commenced till now. In the event of the Interim Injunction dated 03.04.2019 passed by the Court below in I.A. No.800 of 2019 in O.S. No.70 of 2019, the issue is still pending, since the trial in the main Suit in O.S.No.70 of 2019 is not commenced till now and the same is kept pending without any development even though the case of the year 2019.

5. Heard, the learned counsel on either side and perused the material available on record.

6. On a perusal of the record and having taken into consideration the submissions made by the learned counsel on either side, it is seen that despite the suit in O.S.70 of 2019 was filed in the year 2019 and the interim stay in I.A. No.800 of 2019 in O.S. No.70 of 2019 was passed in the year 2019, even after two years already lapsed, the issue has not come to an end since the suit is still pending without any progress. Under these circumstances, in the interest of Justice, this Court directs the Trial Court i.e. The District Munsif, Udumalpet, to commence the Trial in O.S. No.70 of 2019 as expeditiously as possible and proceed with the same on day to day basis by recording any oral and documentary evidence let in by both parties and dispose of the suit in O.S. No.70 of 2019 on or before 30.09.2021. Till the disposal of the suit, the Status quo order already granted as per the order of the Court below on 03.04.2019 shall be maintained by both the parties.

V. BHAVANI SUBBAROYAN, J.,

lbm

7. With the aforesaid directions, this Civil Revision petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

04.03.2021

Lbm

Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

To: The Learned District Munsif, Udumalpet

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