

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.18669 OF 2020

&

WMP.NO.23175 OF 2020

S.Shanmugam Sundaram,
Proprietor M/s.Shanmuga Agencies Dealer - HPCL,
No.130, Coimbatore Road,
Pollachi - 642 002.

... Petitioner

Vs

1. Hindustan Petroleum Corporation Ltd.,
Rep. by its Chief Regional Manager,
Coimbatore Regional Office,
HP House, 18/3 Big Bazaar Street,
Coimbatore - 641 001.

2. The Deputy General Manager - Retail,
Hindustan Petroleum Corporation Ltd.,
Coimbatore Regional Office,
H.P.House, 18/3 Big Bazaar Street,
Coimbatore - 641 001.

3. C.M.Hariraj
(R3 impleaded as per order of
this Court dated 09.02.2021 made
in WMP.No.1639 of 2021)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the second respondent dated 26.11.2020 in ref.CBERO/MVR/RET and quash the notice dated 26.11.2020

For Petitioner : Mr.M.Sivavarthanan

For Respondents 1 & 2 : Mr.M.Vijayan,
for M/s.King & Patridge

For Respondent 3 : R.Gunalan

ORDER

This writ petition has been filed challenging the notice dated 26.11.2020 issued by the second respondent calling upon the petitioner to handover the site to enable the second respondent to handover possession of the same to the landlord namely the third respondent who has been impleaded in this writ petition vide order of this Court dated 09.02.2021 passed in WMP.No.1639 of 2021.

2. The petitioner is a dealer of the first respondent oil corporation situated at old No.132, new No.130, Coimbatore Main Road, Pollachi comprised in the land measuring about 1192 square meters in old survey No.578, 579, 580, 581-part in Survey ward No.1, Block No.11 Pollachi Town (present T.S.No.7/2C T.S ward No.5 in Old Ward No.3 and New ward No.9) and the said land is hereinafter referred to as retail outlet site.

3. Admittedly, the retail outlet site belongs to the third respondent. It is also an admitted fact that the third respondent had entered into a lease deed with the first respondent oil corporation and the said lease has come to an end as early as on 30.09.1999. It is also an admitted fact that the third respondent filed a suit against the first respondent oil corporation for eviction and the said suit came to be decreed in favour of the third respondent. Aggrieved by the same, the first respondent oil corporation preferred an appeal. Pending appeal and in view of the direction given by the Hon'ble Supreme Court on 28.01.2020 in a batch of cases arising out of the City Tenants Protection Act, wherein the Hon'ble Supreme Court held that in cases where the oil corporation are not in possession of the property, they cannot claim benefit under City Tenants Protection Act, the first respondent oil corporation has now decided to handover possession of the subject property back to the landlord namely the third respondent.

4. Admittedly, a communication has been sent by the first respondent oil corporation on 30.03.2020 requesting the petitioner to handover vacant possession of the property to enable the oil corporation to surrender possession of the same to the third respondent (landlord). Thereafter, as seen from the counter affidavit filed by the first respondent, several reminders were sent by the first respondent to the petitioner requesting them to handover vacant possession and also directing them to find alternate site for running the retail outlet. Admittedly till date, no alternate site was identified by the petitioner to run the retail outlet, despite the fact that the first communication was sent to him by the first respondent oil corporation as early as in the month of March, 2020.

5. The petitioner has now challenged the impugned notice dated 26.12.2020 of the first respondent calling upon the petitioner to handover possession of the site to enable the first respondent oil corporation to surrender possession to the landlord namely the third respondent. The petitioner has filed this writ petition only on the ground that he requires further time to find an alternate site to run his retail outlet. Excepting for the said ground, no other ground has been raised in this writ petition.

6. Admittedly, the contractual relationship in respect of the subject property is only between the first respondent oil corporation and the third respondent who is the landlord. It is also an admitted fact that the lease deed between the first respondent oil corporation and the third respondent has come to an end in the year 1999 itself. The Hon'ble Supreme Court in the decision referred to supra has also made it clear that oil corporation who are not in possession of the property cannot claim protection under the City Tenants Protection Act and also cannot seek benefits that are available to the tenants under the said enactment.

7. Admittedly, there is no privity of contract between the petitioner and the third respondent. It is represented by the learned counsel for the third respondent that the third respondent is aged 80 years and he has been running from pillar to post for the purpose of getting possession of the property. As seen from the affidavit filed in support of this writ petition as well as from the counter affidavit of the respondents 1 & 2, the rent which has been received by the third respondent till date also seems to be a paltry one.

8. After giving due consideration to all the aforementioned factors, this Court is of the considered view that there is absolutely no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nl

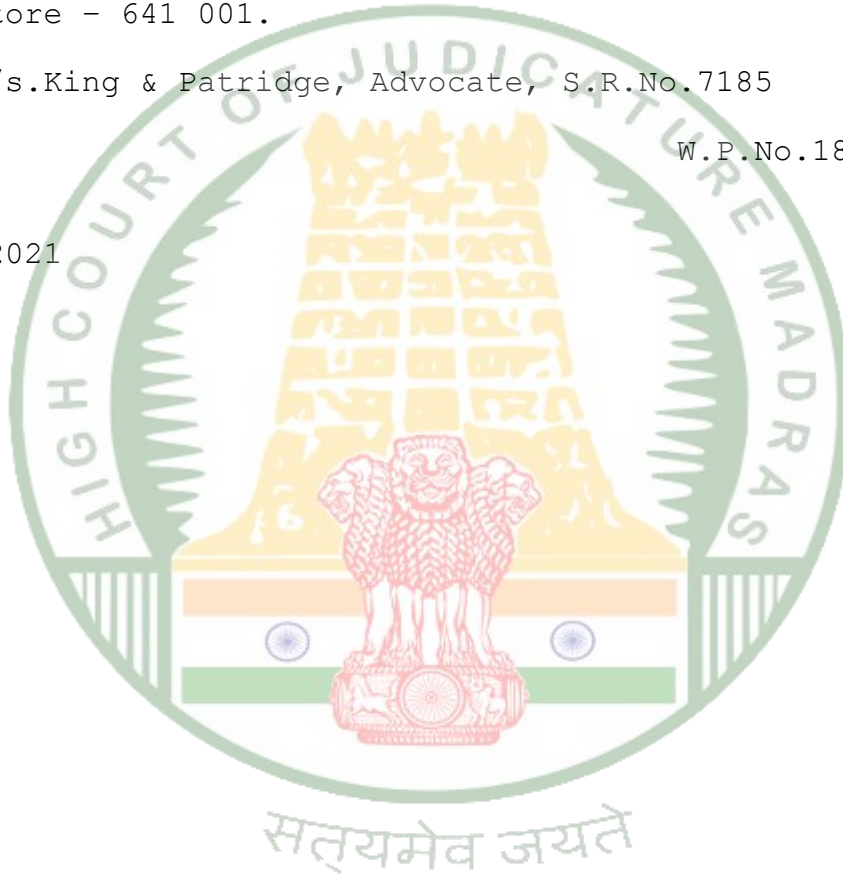
To

1. The Chief Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Coimbatore Regional Office,
HP House, 18/3 Big Bazaar Street,
Coimbatore - 641 001.
2. The Deputy General Manager - Retail,
Hindustan Petroleum Corporation Ltd.,
Coimbatore Regional Office,
H.P.House, 18/3 Big Bazaar Street,
Coimbatore - 641 001.

+1cc to M/s.King & Patridge, Advocate, S.R.No.7185

W.P.No.18669 of 2020

SS (CO)
CS/16/03/2021



WEB COPY