

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 20TH DAY OF APRIL 2021

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

A.No.3218 of 2020
in
C.S.No.474 of 2019

S.Udhyashankar
S/o.Shanmugha Naicker,
436/4, Kelambakkam Main Road,
Kolappakkam Village and Post,
Via Vandalur, Chennai 600 127. ..Plaintiff

-Versus-

1.M/s.Bharath Petroleum Corporation Ltd.,
Represented by its Territory Manager,
No.35, Vaidyanathan Street,
Tondiarpet, Chennai 600 081.

2.L.Ramachandran
Prop. M/s.Ramachandra Agencies (BPCL),
1/524, G.S.T.Road, Vandalur,
Chennai-600 048. ..Defendants

A.No.3218 of 2020:

L.Ramachandran
Prop. M/s.Ramachandra Agencies (BPCL),
1/524, G.S.T.Road, Vandalur,
Chennai-600 048. ..Applicant/2nd Defendant

-Versus-

1.S.Udhyashankar
S/o.Shanmugha Naicker,
436/4, Kelambakkam Main Road,
Kolappakkam Village and Post,
Via Vandalur, Chennai 600 127.

..Respondent 1/Plaintiff

2.M/s.Bharath Petroleum Corporation Ltd.,
Represented by its Territory Manager,
No.35, Vaidyanathan Street,
Tondiarpet, Chennai 600 081.

..Respondent 2/1st Defendant

Application praying that this Hon'ble Court be pleased to strike out the name of the 2nd Defendant in the C.S.(Comm.Div) No.474/2019.

This Application coming on this day before this Court for hearing, the Court made the following order:

Heard the learned counsel for the 2nd defendant who has filed this application to strike out their name in the plaint on the ground that he is not the necessary party and there is no privity of contract between himself and the plaintiff.

2. According to the applicant/2nd defendant, the sales of petrol bunk was stopped from 25.10.2017. There is no cause of action arising within the jurisdiction of this Court, since the suit property situated in

Therefore, seeks to strike out the name of the 2nd defendant in the plaint.

3. The suit is laid before this Court by the plaintiff for recovery of liquidated damages arising out of the contract in respect of land situated outside the territorial jurisdiction of this Court. It was used by the 1st defendant/Bharat Petroleum Corporation Limited to operate its petroleum product outlet through the 2nd defendant who is the licensee under the 1st defendant.

4. According to the plaintiff, this Court has appropriate jurisdiction to entertain and try the present suit as commercial dispute. One of the defendants, namely the 1st respondent having its territorial office within the jurisdiction of this Court.

5. The main contention of the learned counsel appearing for the applicant/2nd defendant is that being a licensee and having vacated the premises as early as 2017, he is not a necessary party to the present suit. However, on considering the plaint averments, it appears that there was rental due since 2004 and the 1st defendant with whom the plaintiff had entered into lease agreement seeking damages from 2004. Whereas, the applicant herein had vacated the premises admittedly only in the year 2017.

Having enjoyed the property of the plaintiff, the liability to pay the damages

has to be decided only in the course of the trial and summarily it is not possible for the Court to hold the appellant/2nd defendant as an unnecessary party in the suit. Hence, the relief to strike as against the 2nd defendant is unsustainable.

6. In the result, the application is dismissed. Post the matter for draft issues on 04.06.2021.

Sd./-G.J.J
20/04/2021

//Certified to be true copy//

Dated at Madras this the _____ day of _____ 2021.

JJ 18/05/2020

COURT OFFICER(O.S.)

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