

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-545-2021(O&M)

Date of decision : 05.07.2021

Cantonment Board, Ambala

... Appellant

Versus

Gurinder Singh Bassan and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR.JUSTICE ASHOK KUMAR VERMA***

Present: Mr.Tribhuvan Dahiya, Senior Advocate with
Mr.Brij Mohan Vashishtha, Advocate
for the appellant.

Mr.Vijay Jindal, Senior Advocate with
Mr.Askshay Jindal, Advocate
for respondent no.1.

Mr.Ashish Kapoor, Advocate
for respondent no.3.

(Proceedings through Video Conferencing)

AUGUSTINE GEORGE MASIH, J.(ORAL)

Challenge in this appeal is to the order dated 06.05.2021 passed by the learned Single Judge whereby status-quo qua running of the Indian Oil Outlet whereby Indian Oil has been obligated to supply the fuel as was already been undertaken prior to 22.02.2021.

Learned senior counsel for the appellant has asserted that the appellant was not impleaded as a party nor was the Defence Estate Officer, Ambala. After the passing of the order impugned, the case came up for hearing on 25.05.2021 when the hearing of the case was deferred to 12.10.2021 and the interim order was ordered to continue. It is thereafter

that the appellant as well as the Defence Estate Officer, Ambala filed applications under Order 1 Rule 10(2) read with Section 151 CPC for impleadment as party. The said applications after notice came up for hearing on 28.06.2021, on which date after consideration thereof, they were allowed on 28.06.2021. An application, i.e. CM no.6846-CWP-2021 was preferred by the appellant for vacation of the stay order dated 06.05.2021. The said application vide order dated 28.06.2021 has been ordered to be heard along with the main case on 12.10.2021.

Learned senior counsel for the appellant submits that the detailed reasons have been assigned for non-continuance of said order dated 06.05.2021 and vacation thereof. With the date fixed, i.e. 12.10.2021 the very purpose of filing of the said application would be frustrated as the petrol pump remain out of operation for a long period from the year 2003 onwards because of termination / cancellation of the Retail Outlet dealership. This interim order will result in restarting the said petrol pump which is unsustainable in the light of the various assigned reasons in the reply to the writ petition as well as the application for vacation of the stay. He, therefore, asserts that impugned order dated 06.05.2021 passed by the learned Single Judge deserves to be vacated/modified.

On considering the submissions made by learned senior counsel for the appellant and on going through the pleadings and the facts specially the orders which have been passed by the learned Single Judge, the latest being 28.06.2021, there is no application of mind with regard to the factum as to whether the order passed initially requires to be continued or not, nor as the aspect with regard to the grounds and the reasons mentioned in the application for vacation of stay. It would be appropriate that the learned

Single Judge takes up the matter and decides the said application at the first instance prior to we making any comment upon the continuance of the impugned order dated 06.05.2021.

Let an application be moved by the appellant before the learned Single Judge for pre-ponement of the hearing of the application. If such an application is made, we have no doubt in our mind that the learned Single Judge would consider the same and on considering the stand of the respective parties, pass appropriate orders in the facts and circumstances.

Counsel for the parties have no reservation with regard to the above orders which have been passed by this Court.

The appeal stands disposed of with the above observations.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

July 05, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No