



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.26663 & 20767 of 2014

and

M.P.Nos.1,1 of 2014

W.P.No.26663 of 2014:

M/s.Ampa Agencies,
Represented by its partner,
AMPA Valliammai Achi,
105, Nelson Manickam Road,
Aminjikarai,
Chennai - 600 029.

... Petitioner

Vs

1. Bharath Petroleum Corporation Ltd. (South),
Rep. by Manager,
No.1, Ranganathan Gardens,
Off 11th Main Road,
Anna Nagar,
Chennai - 600 040.

2. Bharath Petroleum Corporation Ltd.,
Chennai Territory rep. by Deputy Manager (Sales),
Retail, Chennai,
35, Vaidyanathan Street,
Tondiarpet,
Chennai -600081

... Respondents

PRAYER in W.P.No.26663 of 2014 : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, Calling for the records of the 2nd Respondent in proceedings CHN:RET: M41.18 dated 25.09.14, quash the same and consequently forbear the respondents, their officers and employees from in any manner entering the land and premises bearing Door No.105A, Nelson Manickam Road, Aminjikarai, Chennai-29.

W.P.No.20767 of 2014:

1.AMPA Valliammai Achi
2.A.PL.Nachammai

... Petitioners



WEB COPY

Vs

Bharath Petroleum Corporation Ltd. (South),
No.1, Ranganathan Gardens,
Off 11th Main Road,
Anna Nagar,
Chennai - 600 040.

..Respondent

PRAYER in W.P.No.20767 of 2014 : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondent to remove the Pumps installations, Pipe lines or any other fixtures erected or placed by the respondent and other Structures/ super Structures put up by the respondent on the Petitioners premises and consequently forbear the respondent from interfering with out physical possession of the property bearing Door No. 105-A, Nelson Manickam Road, Aminjikai, Chennai-600029 consisting of 9350 sq.ft. of land in T.S.No. 4 Block NO.3, Vada Agaram Village, Aminjikai, Chennai - 600029 Aminjikai.

For Petitioners [in both WPs]	:	Mr.PL.Narayanan
For Respondents [in both WPs]	:	M/s.Geetha Ara for M/s.S.Ramasubramaniam and Associates

COMMON ORDER

The order dated 25.09.2014 passed by the respondent-Corporation is under challenge in W.P.No.26663 of 2014. The relief sought for in W.P.No.20767 of 2014 is to direct the respondents to remove the pumps, installations, pipe lines or any other fixtures erected by them in the premises of the petitioner.

2. The impugned order was issued advising the petitioner to resume the sales from the retail outlet after stamping all the subject nozzles as per procedure. However the parties to the writ petitions admitted the fact that the lease expired on 31.03.2014 and further, supply of petroleum products was stopped by the corporation 10 years back. For the past about 10 years, the retail outlet is non-operational and under these circumstances, the learned counsel for the petitioner made a submission that the property is being wasted at the instance of the corporation and the petitioner, being the absolute owner of the subject property, is unable to deal with the property.

3.It is contended that the respondent-Petroleum Corporation



has to remove their installations in the subject property belongs to the petitioner, enabling the petitioner to use the property as a owner.

4.The fact remains that the retail petroleum outlet is not functional for the past about 10 years and the lease period expired in the year 2014 itself and in the event of any other dispute regarding the recovery of dues or otherwise between the parties, they are at liberty to adjudicate the said issues in the manner known to law, more specifically, before the competent Civil Court. Such adjudication requires examination of documents and evidences with reference to the terms and conditions of the agreement and the said adjudication cannot be undertaken by the High Court under Article 226 of the Constitution of India. Thus, the writ petitions for adjudication of disputed issues, need not be considered by this Court.

5.However, the learned counsel for the petitioner made a restricted argument by stating that the owner of the property is unable to use the land on account of the installations which are lying in the premises, such installations are not useful to any person and merely by keeping the installations, the respondent is causing financial loss to the petitioner in respect of the property right of the petitioner.

6.Thus, this Court is inclined to invoke the special equity powers under Article 226 of the Constitution of India for the limited purpose of issuing a direction to the respondent corporation to remove the installations made by them, enabling the petitioner to use the property as a owner, and in respect of all other claims, issues, disputes between the parties, they are at liberty to approach the competent Civil Court of law for adjudication.

7.Accordingly, the respondents are directed to remove all the installations belonging to them, now remaining in the property belongs to the petitioner, within a period of 8 weeks from the date of receipt of a copy of this order.

8.With these directions, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

nti/mkn



To

1. The Manager,
Bharath Petroleum Corporation Ltd. (South),
No.1, Ranganathan Gardens,
Off 11th Main Road,
Anna Nagar,
Chennai - 600 040.

2. The Deputy Manager (Sales),
Bharath Petroleum Corporation Ltd.,
35, Vaidyanathan Street,
Tondiarpet,
Chennai -600081

+2ccs to M/s.S.Ramasubramanian, Advocate, S.R.Nos.6214, 6215

W.P.Nos.26663 & 20767 of 2014

PL(CO)
SU(18/02/2022)