



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2022

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.437 of 2022

and

W.M.P(MD).Nos.338 and 340 of 2022

Hindustan Petroleum Corporation Limited
Represented by its Senior Regional Manager
and Duly Constituted Attorney,
Trichy Retail Regional Office,
90 IInd Floor, MDSR Enclave,
Bharathidasan Salai, Cantonment,
Trichy-620 001.

... Petitioner

Vs.

1.The Tahsildar,
Taluk Office, Thanjavur.

2.The Revenue Divisional Officer,
Thanjavur.

3.The District Collector,
Thanjavur.

4.The Commissioner of Land Administration,
Ezhilagam, Chennai.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the first respondent in Na.Ka.No.3621/2002/A5 dated 31.12.2021 and quash the same.

For Petitioner : Mr.Mohammed Fayaz Ali

For Respondents : Mr.N.Satheesh Kumar

Additional Government Pleader

ORDER

The writ petition has been filed in the nature of Certiorari calling for the records of the first respondent/The Tahsildar, Taluk Office, Thanjavur in Na.Ka.No.3621/2002/A5 dated 31.12.2021 and seeking to set aside the same.



2. The writ petitioner, in the affidavit filed in support of the writ petition stated that the petitioner's company had been granted land measuring an extent of 0.16.0 hectares at Pillayarpatti Village, Thanjavur Trichy Main Road, Thanjavur in Survey No.199/2B2 by the Government of Tamil Nadu through the first and second respondents/Tahsildhar, Taluk Office, Thanjavur and Revenue Divisional Officer, Thanjavur under a deed of grant, dated 13.10.2014 with effect from 15.12.1994 for a period of three years. In accordance with the deed of grant, the lease rent was to be revised every three years and the lease rent should be paid in advance annually. It was stated that grant of land was for establishing a Petrol Bunk and running its allied services.

3. It is stated that the Company is running a retail outlet through its dealer, M/s.MPVR Petroleum and it is claimed that as on date, the petitioner's company has made investments of Rs.1.24 Crores towards the infrastructure and other facilities. It had been stated that a large number of motorists are dependent on this outlet for their fuel needs. The details of annual lease as demanded by the first respondent had been set out in the affidavit.

4. The learned Counsel for the writ petitioner states that the amount towards the lease as had been demanded by the Tahsildar had been paid by the petitioner and there are no dues, as on date.

5. However, the petitioner had been served with a copy of the impugned notice, dated 31.12.2021, whereby, it had been stated that the petitioner is due and payable a sum of Rs.1,83,69,531/- (Rupees One Crore Eighty Three Lakhs Sixty Nine Thousand Five Hundred and Thirty One Only) towards unpaid lease amount. Along with said notice, a tabular column had been given by the first respondent setting out the details for such demand. The main focus of the arguments advanced by Mr.Mohammed Fayaz Ali, learned Counsel for the writ petitioner is that the order was not preceeded by any prior notice. The learned Counsel stated that there was an underlying threat in the notice that if the aforesaid amount was not paid, the land would be taken back.

6. The learned Counsel stated that this order was in violation of principles of natural justice. The learned Counsel also pointed out that the petitioner was not given opportunity of being heard and if granted could very well have explained that they had been paid the lease amount as demanded by the Tahsildar.

7. Mr.N.Satheesh Kumar, learned Additional Government Pleader, on the other hand took the Court through the agreement entered into between the petitioner and respondent while granting the land for, according to the learned Additional Government Pleader for the respondent's temporary occupation, dated 13.10.2014. The clause with



Additional Government Pleader. Clause 15 of the agreement is as follows:

15. If any dispute of difference shall at any time hereafter arise between the Government of their officers on the one part and the grantee as to the rights duties or liabilities of either party in respects of any matter or thing relating to or arising out of the grant of the construction or the meaning of all or any of the provisions herein contained and said dispute of difference shall be referred for settlement to arbitration of the Collector for the time being of the district and his decision shall be final.

8. In Vidya Drolia Vs Durga Trading Corporation Limited reported in 2021 2 SCC page 1, the Honourable Supreme Court had examined the issue of arbitrability of a dispute and had very clearly held that whenever there is a reference in an agreement to refer disputes to arbitration the Court should relegate the parties to arbitrate the disputes. With respect to the issue of arbitrability, the Honourable Supreme Court had held that the issue can be agitated only before the Arbitral Tribunal and not before the Court.

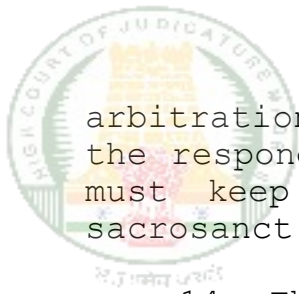
9. The Arbitration and Conciliation Act, 1996, provides that under Section 17, interim measures can also be ordered by the Arbitral Tribunal.

10. It is thus clear that the parties are bound by the agreement which they had entered into. It is only appropriate that this Court under Article 226 of the Constitution of the India, respects such decision.

11. The sanctity of the principles of natural justice can be traced back to the decision in **Maneka Gandhi Vs Union of India, reported in AIR 1978 SC 597**, wherein, the Honourable Supreme Court laid down interlinking of Articles 14, 19 and 21 of the Constitution and stated that imperative before any Administrative order is passed, the individual who is affected by the order is put on notice and is given opportunity of being heard and is actually heard.

12. It is claimed by Mr. Mohammed Fayaz Ali, learned Counsel for the petitioner, that the said procedure had not been followed in the present case.

13. Invoking the plenary power under Article 226 of the Constitution I would rather convert the impugned notice of respondents which held a threat of dispossession to one of a two show cause notice and direct the petitioner to reply to the said notice within a period of two weeks from the date of receipt of a copy of this order. The petitioner, if advised may invoke the



arbitration Clause. If no reply is issued by the petitioner herein, the respondents can proceed in manner known to law. The respondents must keep in mind that the procedure established by law is sacrosanct and must be adhered to.

14. The Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Tahsildar,
Taluk Office, Thanjavur.

2.The Revenue Divisional Officer,
Thanjavur.

3.The District Collector,
Thanjavur.

4.The Commissioner of Land Administration,
Ezhilagam, Chennai.

+1 CC to M/s.SPL GP (SR-1262[F] dated 11/01/2022)

W.P (MD) .No.437 of 2022
10.01.2022

bk(CO)

TR(02.02.2022) 4P 6C