



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Fourth day of July Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

W.M.P. (MD) No.9391 of 2022
in
W.P. (MD) No.8343 of 2022

M/S KANNAPPAN ENTERPRISES
REPRESENTED BY ITS WORKING PARTNER,
S.KANNAPPAN

... PETITIONER / PETITIONER

Vs

1 THE UNION OF INDIA
REPRESENTED BY ITS SECRETARY,
MINISTRY OF PETROLEUM AND NATURAL GAS,
SHASTRI BHAWAN, NEW DELHI.

2 M/S.RELIANCE BP MOBILITY LIMITED,
2ND FLOOR, 5C, RELIANCE CORPORATE PARK,
THANE BELAPUR ROAD, GHANSOLI, NAVI
MUMBAI-400701.

3 M/S.RELIANCE BP MOBILITY LIMITED,
6TH FLOOR, 89, DR.RADHAKRISHNAN SALAI,
MYLAPORE, CHENNAI-600004. ... RESPONDENTS / RESPONDENTS

4 R.SEKKAPPAN,
5 S. NAGAMMAI, ... RESPONDENTS / PROPOSED
RESPONDENTS NO.4 & 5

(R4 & R5 ARE IMPEADED VIDE COURT ORDER
DATED 20.06.2022 IN WMP (MD) .No. (MD)
8739/2022 IN WP (MD) 8343/2022)

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass AD INTERIM ORDERS directing the 2nd and 3rd respondents herein to continue with the supply of petroleum products to the petitioner M/s Kannappan Enterprises Petrol Retail Outlet, pending disposal of the Writ Petition.

Prayer in WP (MD) . 8343/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to continue with the supply of petroleum



products to the petitioner M/s. Kannappan enterprises Petro Outlet as per the Dealership Agreement on the basis of the petitioner's representation dated 14.04.2022.

ORDER: This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.T.CIBI CHAKRABORTHY, Advocate for the petitioner and of MR.D.POORNACHARI, Central Government Standing Counsel for the 1st respondent and MR.RAGHUVARAN GOPALAN, Advocate for the respondents 2 & 3 and Mr.M.Jegadeesh Pandian, Advocate for the Respondents 4 & 5, the court made the following order:-

Heard the learned Senior Counsel appearing for the petitioner and the learned standing counsel appearing for the first respondent and the learned standing counsel appearing for R2 & R3 and the learned counsel appearing for R4 & R5.

2. The petitioner is a partnership firm represented by Thiru.S.Kannappan. The said Kannappan is none other than the son of R4 & R5. The parents and the son were jointly running the petition mentioned retail outlet. Dispute arose between the parents on the one hand and son on the other. That led to reconstitution of the partnership firm by the son. The supplier namely M/s.Reliance BP Mobility Limited citing the said dispute refused to supply the products. Hence, this writ petition came to be filed.

3. I am of the view that the issue is eminently suitable for resolution through mediation. I therefore request the Hon'ble Mr.Justice K.Kannan (retired) to endeavor to resolve the dispute between the parties. After discussion with the counsel on either side, the Hon'ble Mediator may fix his fees.

4. Mr.T.Cibi Chakraborty, the learned counsel appearing for the petitioner and Mr.M.Jegadeesh Pandian, learned counsel appearing for R4 & R5 informed the Court that they will move the Hon'ble Mediator along with the order copy. If the petition mentioned retail outlet remains non-functional in the mean while, it is not going to serve anybody's purpose. I indicated that I am inclined to direct the supplier to continue to supply the products to the petitioner on condition that the petitioner will keep accounts.

5. At this stage, Thiru.Raghuvaran Gopalan, learned counsel appearing for R2 & R3 informs that Clause 25 of the agreement between the parties may come in the way. The said clause is as follows:-

"25.Supervision of RO:

It shall be paramount condition of this agreement that the dealer himself (if he be an individual) or both partners of the dealer firm (if the dealer is a partnership firm consisting of two partners only) or the majority of the partners of the dealer firm (if



the dealer is a firm consisting more than two partners) or majority of the office bearers/elected committee members of the dealer Co-operative society (if the dealer is a co-operative society) or the Managing / whole time directors (if the dealer is a private limited company) as the case may be, shall ordinarily be resident in India and shall take active part in the management and running of the dealership and shall personally operate and supervise the same on full time and shall not under any circumstances, do so through any other person, firm or body either as Benami or through any 'Power of Attorney' or otherwise."

6. At present, the re-constituted partnership firm comprises the petitioner, his daughter Ms.Sindhu Kannappan and one Mrs.Nachu. It is seen that the petitioner as well as his daughter are NRIs. They do not ordinarily reside in India. When this was pointed out, the learned counsel for the petitioner states that the partnership firm will be reconstituted so as to bring the same in consonance with the aforesaid clause 25. If the partnership firm is re-constituted in terms of Clause 25, R2 & R3 are directed to accept the same and resume supply of the petroleum products to the petition mentioned retail outlet.

7. The Writ Miscellaneous Petition is disposed of.

sd/-

04/07/2022

/ TRUE COPY /

/07/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE SECRETARY,
UNION OF INDIA
MINISTRY OF PETROLEUM AND NATURAL GAS,
SHASTRI BHAWAN, NEW DELHI.

+1 CC to M/s.T.CIBI CHAKROBORTHY, Advocate (SR-6506[I] dated 04/07/2022)

+1 CC to M/s.RAGHUVARAN GOPALAN, Advocate (SR-6514[I] dated 04/07/2022)

ORDER

IN

W.M.P. (MD) No.9391 of 2022
in

W.P. (MD) No.8343 of 2022

Date : 04/07/2022

MK/VR/SAR.II/12.07.2022/3P/4C