

WPA 13173 of 2022

Avtar Singh
Vs.
Indian Oil Corporation Ltd. & Ors.

Mr. Partha Pratim Roy
Mr. S. Bandyopadhyay
Mr. M. K. Ghosh ...for the petitioner.

Mr. Amit Kr. Nag
Mr. Partha Banerjee
Mr. M. Roy ...for the respondents.

Affidavit of service filed by the petitioner is taken on record.

Heard learned counsels for the parties.

It is contended on behalf of the petitioner that the plot in question belonging to the petitioner was leased out to the respondents vide deed of lease executed on 11th July, 2005 and is due to expire on 6th November, 2035.

The petitioner was granted dealership by Indian Oil Corporation Ltd. for the purpose of running a retail outlet in the said plot and such dealership was terminated by the lessees by a letter issued on 6th April, 2009. Since the plot was not being utilized by the lessees after termination of the dealership of the petitioner, the petitioner approached the respondents with two proposals – to release the property in his favour or to purchase the same at a consideration of Rs.1.5 crores.

In reply to the said proposal, the respondents informed the petitioner that since the lease is valid up to 6th November,

2035, the decision to purchase does not seem to be commercially viable at the moment and they would inform the petitioner in the event they decided to purchase the same at any subsequent stage.

Clause III (j) of the deed of lease is reproduced below:

“In the event of the condemnation of the demised premises or any part thereof or in the event of the full use of the demised premises or any part thereof as a serving station and allied business being interfered with or handicapped by any law ordinance or rule or regulation of any Government or authority or by order of any Court or the violation of terms of the agreement by the lessor or in the event of the demised premises at any time ceasing in the opinion of the lessee for any reason to be advantageous for the sale of petrol and/or petroleum products, the lessee may at.....giving ninety days written notice to the lessors provided that the occurrence from time to time during the subsistence of this lease of events of circumstances which according to the provisions of this clause entitle the lessee to determine the same and the failure of the lessee notwithstanding the occurrence of such events or circumstances of determine this lease shall not amount to or be treated a waiver of right of the lessee contained in this clause.”

Clause III (k) of the deed also entitles the lessee to determine the lease upon previous notice to the lessor.

In view of the above, this Court is inclined to hold that there is no provision in the deed of lease which entitles the lessor to terminate the lease prior to its expiry. Since the lessees have refused to accept the proposal of the lessor for termination of the lease or purchase of the plot in question, the prayer of the petitioner cannot be acceded to, being devoid of merits.

Accordingly, the writ petition being WPA 13173 of 2022 is dismissed.

However, dismissal of the writ petition shall not preclude the lessees from revisiting the proposal of the lessor.

There shall be no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)