



W.A.(MD) No.1903 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **30.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.1903 of 2023
and C.M.P.(MD) No.14618 of 2023

B.Srinivasan Deviah

... Appellant/4th Respondent

-Vs.-

1.S.Gowri

... 1st Respondent/Writ Petitioner

2.The Bharat Petroleum Corporation Limited,
(A Government of India Enterprises)
Bharat Bhavan,
No.4 and 6 Currombhoy Road,
Balland Estate, P.B.No.688,
Mumbai – 400 001.

3.The Bharat Petroleum Corporation Limited,
Rep. by its Authorized Officer,
11th Main Road, Annanagar,
Chennai.

4.The Territory Manager,
Territory Officer,
The Bharat Petroleum Corporation Limited,
No.37, Thirupparankundram Main Road,
Pasumalai, Madurai – 600 004.

5.The Tahsildar,
Taluk Office,



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Nilakottai – 624 208,
Dindigul District.

... Respondents 2 to 5/
Respondents 1 to 3 & 5

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 29.08.2023 made in W.P.(MD)No.10260 of 2014 on the file of this Court.

For Appellant : Mr.Prakash Goklaney

For Respondents : Mr.H.Laxmi Shankar for R1

Mr.S.Shanmugavel,
Additional Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by **V.LAKSHMINARAYANAN, J.**)

A total extent of land of 11,088 square feet situated in S.Nos. 488/B1 and 487/B2 in Sevuganapatti Village, Pattiveeranpatti Main Road, Dindigul District, was leased out to M/s.Burma Shell Oil Storage and Distributing Company Limit. The lease was in the year 1956. The period of lease was 20 years and the rent payable was Rs.36/-.



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2. Burma Shell was taken over by Bharat Petroleum Corporation Ltd., viz., the respondents 1 to 3. A portion of this property, fell to the share of one M.S.N.P.D.Jeyasankar. Of this extent, he conveyed 6042 $\frac{1}{4}$ square feet in Survey No.487/2A, 488B/1A and 487/B2B in favour of the first respondent in the year 2008. As the lease had expired in 1996 and BPCL has not handed over possession, a notice was issued by the first respondent on 24.01.2013.

3. BPCL agreed that the first respondent is the lessor, but did not pay the rents nor it did it get the lease extended. Being left with no option, the first respondent filed the Writ Petition for issuance of a Writ of Mandamus, directing the respondents to hand over 6042 $\frac{1}{4}$ square feet corresponding to 561.55 square meter to her.

4. Learned Single Judge taking note of the fact that the lease has commenced in 1956 and expired in 1976 and BPCL was entitled to statutory extension of 20 years as per the Acquisition Act and the extended period also ended in 1996, directed handing of possession of the property purchased by the first respondent from M.S.N.P.D.Jeyasakar.



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5. Against this order, the fourth respondent in the Writ Petition one B.Srinivasan Deviah is on appeal before us.

6. The appellant would plead that he has independent title and is possession of a portion of the property and therefore, he is not liable to hand over possession as per the directions of the learned Single Judge.

7. The order of the learned Single Judge is very clear. He has directed only the BPCL to hand over possession of the extent of the property which they took on lease from the first respondent's vendor. In so far the claim of the appellant is concerned, the learned Judge has left it open to the parties to approach the jurisdictional authorities to demarcate the portion and hand over only 6042 $\frac{1}{4}$ square feet to the first respondent. The remaining portion would obviously not belong to the first respondent and she has not made claim over that extent of the property. BPCL cannot continue in possession, since the lease has come to an end, atleast three decades ago. Therefore, we do not find any reason to interfere with the directions given by learned Single Judge, directing B.P.C.L. to hand over possession.



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8. In so far as the claim of the appellant is concerned, the fear of the appellant is that his property would also be taken over by the first respondent stands allayed consequent to the direction for demarcation. In case any title is claimed by the appellant or by the first respondent with respect to any portion which is covered by the order in the Writ Petition, the remedy open to them is to approach the jurisdictional civil Court.

9. With the above observations, the Writ Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

[S.M.S.J.] & [V.L.N.J.]
30.10.2023

NCC :Yes/No
Index :Yes/No
SJ

To

1.The Tahsildar,
Taluk Office,
Nilakottai – 624 208,
Dindigul District.



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S.M.SUBRAMANIAM, J.
AND
V. LAKSHMINARAYANAN, J.

SJ

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