

12.03.2024
Court No. 3
S/L. No. 8
Sourav/
Suvayan

FMA 73 of 2020

Indian Oil Corporation Limited & Ors.

Vs.

M/s. Roy & Company & Ors.

Mr. Jayanta Mitra, Sr. Adv.

Mr. Manwendra Singh Yadav

Ms. Satabdi Kundu Naskar

...for the Appellants.

Mr. Kalyan Kumar Bandyopadhyay, Sr. Adv.

Mr. Ram Anand Agarwal

Ms. Nibedita Pal

Mr. Ramesh Dhara

Mr. Ananda Gopal Mukherjee

... for the respondent no. 1.

1. Heard learned Counsel for the parties.
2. Mr. Mitra, learned Senior Counsel at the outset submits that the writ petition has been disposed of at the 'Motion' stage relying on an earlier Division Bench decision in the case of Indian Oil Corporation Limited and Others Vs. M/s. Sri Ramnivash Ramgopal and Others (Appeal No. 42 of 2012 arising out of WP 758 (W) of 2010) and no opportunity of filing counter affidavit to oppose the claim of the petitioner was given to the Indian Oil Corporation.
3. Mr. Bandyopadhyay, learned Senior Counsel appearing for the respondents (petitioners before the writ court) fairly submits that he has no

objection for remand of the matter to the Single Judge provided the right of the petitioners to continue the dealership, as he is doing now be protected till the disposal of the writ petition by the Single Bench on remand.

4. Regard being had to such fair submission at the Bar and having perused the order passed by the learned Single Judge, we deem it just and proper to remand the matter to afford an opportunity to the Indian Oil Corporation to file the affidavit-in-opposition, if so advised within a period of four weeks from March 15, 2024. No further time shall be granted for the aforesaid purpose. The matter be disposed of within four months from the date of filing of affidavit-in-opposition by the appellant (opposite party/respondent before the writ Court) excluding the days occupied by Summer Vacation as far as practicable. This is, however, not a direction but a request or suggestion to Hon'ble Single Judge.
5. We feel persuade to express here that we have not expressed any opinion on the merit of the claim of either of the parties or applicability of decision of Hon'ble Division Bench in the aforesaid case.

6. It is further directed that the petitioner shall continue to operate the captioned kerosene oil dealership in accordance with the terms of the brochure of the appellant.
7. The order shall be effective till disposal of the writ petition on remand.
8. With the aforementioned observation, the appeal being FMA 73 of 2020 is disposed of and the interim order/orders passed in the appeal is protected till the date specified.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)