

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.8336 OF 2024
IN
SECOND APPEAL NO.82 OF 2016 .

Bharat Petroleum Corporation Limited ...Applicant.

In the matter between

Bharat Petroleum Corporation Limited ...Appellant.

Versus

Shree Bholadas Mandir Trust and Ors. ...Respondents.

Mr. G. S. Godbole, Senior Advocate a/w. Mr. Roop Basu and Mr. Ahmed Padela i/b The Law Point for the Applicant in IA No.8336/2024.

Mr. P. N. Joshi a/w. Mr. Nikhil Pujari for Applicant in IAST No.13187/2024.

Mr. R. D. Soni i/b Mr. Hrishikesh S. Shinde for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : April 30, 2024.

P. C. :

1. Heard.
2. Interim Application has been filed by the appellant in Second Appeal No.82/2016 seeking time to vacate the suit property as directed by judgment and order dated 23rd September 2015 passed by

the First Appellate Court and upheld by this Court *vide* order dated 18th March 2024. Applicant is seeking extension of 3 years time to vacate the suit property as retail outlet is an operational petrol pump and will require prior approval from Petroleum and Explosives Safety Organization as there is dead stock available in the underground tank situated in the suit property. It is further contended that apart from the said fact that the staff employed at the station will have to be re-employed. It is further contended that retail outlet is functioning since the year 1973 and a new site will have to be located to set up the petrol pump station and to avoid inconvenience to the traffic which may take considerable time.

3. These contentions raised by Mr. Godbole, learned Senior Advocate are opposed by Mr. Soni, learned counsel for the respondent contending that the only factor which will have to be taken into consideration is the shifting of the 4 underground tanks which will not require a period of 3 years. He submits that in the year 2012 itself judgment of the Trial Court was passed and alternative arrangements ought to have been made by the applicant.

4. Considering that the applicant is a public sector undertaking running fuel station at the suit property, it is necessary that there is

proper shifting of the underground tanks with all safety measures in place. The fuel station was operating since long and it cannot be discounted that there will be sufficient infrastructure which has been erected and which will have to be removed and relocated to some other place. It is also not disputed that there are 4 underground tanks with petroleum stock stored therein and it is therefore necessary that the same is removed with appropriate permissions being obtained and procedures being followed.

5. Considering the above, in my opinion, time of one year can be granted to the applicant to vacate the suit property subject to an undertaking to that effect being filed in this Court by Territory Manager Mr. Mukund Dhamale within a period of 1 week from today. Undertaking to specifically state the date of vacating the suit property i.e. the period of one year from the date of the passing of the order i.e. on 17th March 2025. Undertaking to specifically state that time of one year is for the purpose of enabling the applicant to vacate the suit property and not to further challenge the order of 18th March 2024.

6. Interim Application is allowed subject to the above undertaking being filed within period of one week from today.

[Sharmila U. Deshmukh, J.]