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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.844 of 2024

M/s.A.R.Agencies
Rep. By its Partner, A.Ramasamy
IOCL Petroleum Dealer,
No.139/1, Vellacovil Road,
Muthur Post, Kangeyam Taluk,
Tiruppur District.

... Petitioner

Vs.

1. The General Manager (Retail Sales)
M/s. Indian Oil Corporation Ltd.,
Tamil Nadu State Office, Indian Oil Bhavan
139, Nungampakkam High Road,
Chennai-34.

2. The Deputy General Manager (Retail Sales)
Indian Oil Corporation Ltd., Marketing Division,
8/1079, Avinashi Road, Coimbatore.

... Respondents

Prayer: This Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents to handover vacant possession of the retail outlet site of M/s.A.R.Agencies at No.139/1, Vellacovil Road, mutur Post, Kangeyam Taluk, Tiruppur District situated at Village of Muthur in the Registration sub District of Vellacovil bearing old S.F.no.453 New S.No.442/4 ad-measuring 1063.8 sq. metres by removing their outfit being apparatus and equipments provided by the Corporation to the petitioner by considering the petitioner's representation dated 02.08.2023.



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For Petitioner : Mr.M.Vijayan
For M/s.K.Premkumar
For Respondent : Mr.V.Anantha Natarajan, RR1 & 2

ORDER

This petition has been filed seeking a direction to the respondents to handover the vacant possession of the retail outlet site of M/s.A.R. Agencies at No.139/1, Vellacovil Road, mutur Post, Kangeyam Taluk, Tiruppur District situated at Village of Muthur in the Registration sub District of Vellacovil bearing old S.F.no.453 New S.No.442/4 ad-measuring 1063.8 sq. metres by removing their outfit being apparatus and equipments provided by the Corporation to the petitioner by considering the petitioner's representation dated 02.08.2023.

2. It is the case of the fact that the site at No.139/1 Vellacovil Road, Muthur, kangeyam Taluk, Tiruppur District situate at Village of Muthur in the Registration Sub District of Vellacovil bearing old S.F.No.453, New S.No.442/4 ad-measuring 1063.8 sq.meters belongs to the petitioner's wife Arukathal. In the year 1987, the petitioner offered the land to establish and operate a Petroleum retail outlet dealership under the respondent. The said Arakathal had decided to resume the land on which retail outlet is situated for her own use as she intends to settle the property in favour of her daughters, for which, thee months notice



was issued on 02.08.2023 for terminating the dealership agreement to the respondents. However, the respondents have not handed over the possession to the petitioner's wife. Hence, the present petition.

3. The learned counsel for the petitioner submitted that as per the agreement between the petitioner and the third respondent, if the petitioner wants to terminate the dealership agreement, it is mandate to issue three months notice, in which, the petitioner had issued a legal notice before three months i.e. On 12.08.2023 and the same was dispatched on 04.08.2023. However, till date, the respondent has not removed the machineries which was installed by the petitioner. This Court may issue a direction to the respondent to remove the equipments which was installed in the petitioner's wife land and hand over the vacant possession to the petitioner within the reasonable time as fixed by this Court.

4. The learned counsel for the first respondent submitted that the petitioner is operating the retail outlet under the dealer controlled site, the respondent corporation is neither having the lease or control over the site. The petitioner is having control and operated the retail outlet as per the terms of the distributorship agreement. The distributorship agreement provides Arbitration



clause to decide any dispute between the dealer and the corporation. The learned counsel further submitted that the unilateral termination of the distributorship agreement is void, the petitioner has enjoyed the commissions and various benefits from the respondent corporation, the petitioner as the dealer governed by the dealership agreement, which inter alia provides Arbitration Clause, the petitioner has effective alternative remedy, the instant petition is not maintainable.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the land in S.No.453, New S.No.442/4 admeasuring 1063.8 sq. meters is belonging to the petitioner wife, in which, the petitioner obtained permission from his wife for establishment of retail outlet with the consent of the first respondent. It is also and admitted fact that the first respondent had entered into an agreement with the petitioner knowing very well that the petitioner is not a owner of the land and the petitioner wife is the owner of the land.

7. It is the main grievance of the petitioner that now the petitioner wife do



not want to continue her license with the first respondent and she wants to alienate the property in favour of her daughters. When the said decision was taken by the petitioner's wife, this Court cannot compel her to continue the lease period either to the petitioner or to the first respondent. Further, the clause referred by the first respondent Corporation is application to the person who has owned a land and made agreement with the first respondent. In the present case, the land is owned by the petitioner wife and the petitioner is not the owner of the property. Hence, referring the said clause as against the petitioner is not sustainable. As per the agreement, the petitioner has already sent three months notice. After expiry of the said notice, the first respondent Corporation has to necessarily vacate the premises and hand over the possession to the petitioner.

8. Such view of the position, the first respondent is directed to remove the machineries which was fixed in the land and hand over the possession to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

9. With the above direction, the writ petition is allowed. No costs.

02.09.2024



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M.DHANDAPANI,J.

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To

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