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W.P.No.30433 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 30433 of 2022

M.R.Syed Ibrahim Badusha

.... Petitioner

Vs

The Chief Divisional Sales Manager (Retail),
Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
8/1079, Avinashi Road,
Coimbatore – 641 018.

.... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondent, to forthwith remove all the material and handover the vacant possession of the property to the petitioner herein of the premises situated at S.F.No.248/2B (New T.S.No.B/38/67/3C) at Ward No.31, Chikkadasampalayam Village, Mettupalayam Taluk admeasuring 8,276.5 sq.ft.

For Petitioner : Mr.V.R.Kamalanathan
for Mr.R.Mani Barathi
For Respondent : Mr.K.Vijaymehanathan
for M/s.AAV Partners

ORDER



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This Writ Petition has been filed for a direction directing the respondent to remove all the materials and hand over the vacant possession of the property comprised in S.F.No.248/2B (New T.S.No.B/38/67/3C) situated at Ward 31, Chikkadasampalayam Village, Mettupalayam Taluk, admeasuring 8276.5 sq.ft (herein after referred as “the subject property”).

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The respondent is operating a retail outlet in the subject property in the name and style of Super Auto Service. Subsequently, it was converted into COCO, run by one Mohammed Saffick, as a Contractor. The respondent entered into a lease agreement with one Savithriammal in the year 1973. By efflux of time, the lease deed came to an end in the year 1993 itself. Subsequently, the said Savithriammal died. The petitioner had purchased the subject property from the legal heirs of the said Savithriammal by a registered sale deed dated 11.3.2015 vide Document No. 1998 of 2015. Simultaneously, his wife also



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purchased part of the subject property by a registered sale deed dated 12.08.2016, vide Document No.6796 of 2016. Therefore, the petitioner and his wife became absolute owners of the subject property and also they were issued patta and chitta. All the revenue records were mutated in their name.

4. While being so, the respondent invited the petitioner for negotiation in respect of payment of rent or renewal of lease. However, it was not concluded as the petitioner had duly informed the respondent that he is not interested in continuing the rental agreement or executing any lease and requested the respondent to vacate the premises. Admittedly, the petitioner was in arrears of rent from the date of purchase of the subject property for the petitioner and his wife. Though the petitioner made several requests to the respondent to vacate and hand over the vacant possession of the subject property, the respondent neither vacated nor paid any rent till date. Hence, this writ petition.

5. A perusal of the counter filed by the respondent and the submissions made by the learned counsel appearing for the respondent



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reveals that the respondent disputed the ownership of the subject property. Further, though the respondent directed the petitioner to produce the documents relating to the title of the subject property, the petitioner did not come forward with the original title deed. Further, the respondent did not deny the arrears of rent and there is no extension of lease by the petitioner. 3

6. Admittedly, the lease came to an end in the year 1993 itself between the respondent and the erstwhile owner, viz., Savithriammal. After her demise, the legal heirs of the said Savithriammal received rent from the respondent. However, after purchase of the subject property by the petitioner and his wife on 11.03.2015, the respondent failed to pay any rent and also no fresh lease agreement was executed in favour of the respondent by the petitioner. Therefore, without any lease, the respondent is continuing to stay in the property belonging to the petitioner, that too, without paying any rent. The respondent has been recognized as State under Article 12 of the Constitution of India, thereby expected the rent fairly, reasonably and lawfully.



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7. In view of the above, the respondent is directed to vacate from the subject property and hand over vacant possession of the subject property to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. Insofar as the arrears of rent is concerned, the petitioner is at liberty to proceed as against the respondent in the manner known to law.

8. With the above direction, this writ petition stands disposed of. No costs.

14.06.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To
The Chief Divisional Sales Manager (Retail),
Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
8/1079, Avinashi Road, Coimbatore – 641 018.

G.K.ILANTHIRAIYAN, J.

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