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W.A.No.3350 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR  
AND  
THE HON'BLE Dr. JUSTICE A.D.MARIA CLETE

W.A.No.3350 of 2023  
AND  
C.M.P.No.27328 of 2023

Indian Oil Corporation Limited  
Chennai Divisional Office  
No.500, Anna Salai,  
Teynampet, Chennai 600 018

.. Appellant

Vs.

1.P.P.Ravi  
Prop. M/s.Raksha Agencies  
No.2/345, Nattarampalli Main Road  
Tirupathur District 635 651

2.D.Shivaji

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 24.08.2023 passed by the learned Judge in W.P.No.24938 of 2023.

For Appellant : Mr.Mohammed Fayaz Ali  
For 1<sup>st</sup> Respondent : Mr.R.Ramesh  
For 2<sup>nd</sup> Respondent : Mr.Prakash Adiadam



W.A.No.3350 of 2023

## **JUDGMENT**

(Delivered by S.S.SUNDAR, J.)

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This writ appeal is directed against the order dated 24.08.2023 passed by the learned Single Judge in W.P.No.24938 of 2023 filed by the 1<sup>st</sup> respondent, wherein, the learned Single Judge has observed that a final decision after enquiry should be taken by the appellant subject to the outcome of the pending civil suits.

2. The brief facts of the case are as under :

The 1<sup>st</sup> respondent is a dealer of petroleum products and running a petroleum outlet, based on the dealership agreement he had with the appellant. The 1<sup>st</sup> respondent is expected to run the retail outlet subject to the terms and conditions, without involving any third party. While so, the appellant issued a show cause notice calling upon the 1<sup>st</sup> respondent, as to why his dealership agreement cannot be cancelled for violating the terms and conditions of the agreement. It is alleged that in violation of the terms and conditions of the dealership agreement, the 1<sup>st</sup> respondent has entered into a Memorandum of Understanding with the 2<sup>nd</sup> respondent, for running the outlet on the basis of a partnership deed. It is also stated that a Power of Attorney deed has been executed by the 1<sup>st</sup> respondent in favour of the 2<sup>nd</sup> respondent, a stranger.



W.A.No.3350 of 2023

Questioning the said show cause notice issued by the appellant, the

1<sup>st</sup> respondent has filed W.P.No.3350 of 2023. This writ petition was disposed

of by the learned Single Judge in the following lines :

*"6. Turning to the issue in the present case, it is between the Indian Oil Corporation and its dealer. While, IOC might have been triggered to issue a show cause notice based on the complaint given by the 2<sup>nd</sup> respondent herein, still it is to take an independent call uninfluenced by any such allegation made by the 2<sup>nd</sup> respondent.*

*7. Therefore, this Court directs the IOC, the 1<sup>st</sup> respondent herein to hold an enquiry and take its independent decision. It is also required to give the petitioner a right of hearing. It is made clear any such decision of the first respondent will be subject to the outcome of the pending civil suits, since the petitioner has challenged that some of the documents stated to have been the reason for the 1<sup>st</sup> respondent to issue show cause notice as fabricated by the 2<sup>nd</sup> respondent in one of the civil suits in O.S.No.123 of 2019."*

Aggrieved by this order, the appellant, who is the 1<sup>st</sup> respondent in the writ petition, has preferred this appeal.

3. The learned counsel appearing for the appellant submitted that the suits which are referred to in the order, has no relevance to the proceedings that are initiated against the 1<sup>st</sup> respondent for cancellation of dealership agreement.

4. This Court noticed that during the course of enquiry, a suit in



W.A.No.3350 of 2023

O.S.No.123 of 2019 was filed by the 1<sup>st</sup> respondent on the file of the District Munsif Court, Tirupathur, against some third parties for an injunction restraining them from interfering with his possession. The writ petitioner has not pleaded any relevance. It may be a collusive suit which has nothing to do with the action taken by the appellant. The other suit viz., O.S.No.237 of 2018 is one filed by the 2<sup>nd</sup> respondent before the learned District Munsif Judge, Tirupathur, against the 1<sup>st</sup> respondent for an injunction restraining the 1<sup>st</sup> respondent from interfering with his possession and enjoyment of the retail outlet run by him in the name of Raksha Agencies.

5. The question before the appellant is, whether the license granted by the appellant in favour of the 1<sup>st</sup> respondent is liable to be cancelled for the violations stated in the show cause notice.

6. The pendency of the suit or the decision in the two suits in either way will not affect the right of the appellant to proceed against the dealer/ 1<sup>st</sup> respondent in terms of the agreement. Neither the decision of the first suit nor the decision of the second suit, is likely to affect the independent right of the appellant to deal with its dealer, in terms of the dealership agreement or the regulations/guidelines governing the agreement. In the said circumstances, the



W.A.No.3350 of 2023

observation of the learned Single Judge that any decision should be subject to the outcome of the pending civil suits is misleading and therefore, the order of the learned Single Judge is set aside and the writ petition filed by the 1<sup>st</sup> respondent stands dismissed in toto.

7. The learned counsel for the 1<sup>st</sup> respondent submitted that he has grievance against the Enquiry Officer, who has now been appointed for holding enquiry against the 1<sup>st</sup> respondent. This request cannot be considered by this Court, at this stage. It is not for the 1<sup>st</sup> respondent/dealer to dictate, as to how and by whom, the enquiry should be conducted as against him. In the case of any bias or malafies, it may give rise to an independent course of action. The appellant shall complete the enquiry and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this judgment.

With the above direction, this writ appeal stands allowed. No costs.  
Connected C.M.P. is closed.

[S.S.S.R.,J.] [A.D.M.C., J.]  
24.10.2024

Index : Yes/No  
Neutral Citation : Yes/No  
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WEB COPY



W.A.No.3350 of 2023

S.S.SUNDAR, J.  
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gya

W.A.No.3350 of 2023

24.10.2024