



W.P(MD)No.9495 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9495 of 2024

1.Gandhimathinathan

2. M.Sankar

... Petitioners

Vs.

1.The Indian Oil Corporation Limited,
Represented by its Manager (Retail Sales),
Madurai Divisional Office,
No.2, Race Course Road,
Chokkikulam,
Madurai - 625 002.

2.M.Devika

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to handover the leased land admeasuring about 8524 sq.ft. comprised in Survey No.730/A-1 & 2 in Meelavittan Village, Thoothukudi Taluk, Thoothukudi-Melur Sub Regn. District, Thoothukudi District as per the lease deed 725 of 2004 dated 30.03.2004 on the petition of the petitioners 1 and 2 dated 24.01.2024 for their own use.



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For Petitioners : Mr.S.Radhakrishnan

For Respondents : Mr.K.Muraleedharan,
Standing Counsel for R1.
Mr.R.J.Karthick for R2.

ORDER

Indian Oil Corporation Limited was inducted as lessee in respect of the subject property vide lease deed dated 30.03.2004. The lease was for twenty years. It expired on 30.03.2024. The lease was renewable by mutual terms and conditions. There are three owners and out of them, two have not consented for renewal of the lease. As a result, the lease could not be renewed. In these circumstances, the petitioners herein called upon the lessee to hand over vacant possession of the leased land. Since the lessee did not comply with the said demand, this writ petition came to be filed.

2.The learned standing counsel for the corporation submitted that one of the co-owners is supporting them. This contention may not hold good because an eviction proceeding can be initiated at the instance of any of the co-owners. The learned standing counsel therefore primarily contended that the present writ petition is not maintainable and that the petitioners will have to necessarily file only a civil suit. He relied on the order dated 07.07.2023



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passed by the Hon'ble Supreme Court in S.L.P. (Civil) No.16624 of 2023 (M/s.Indian Oil Corporation Vs. T.Amirthavalli) in support of this contention.

3.In the said case, the Hon'ble Division Bench of the High Court had directed Indian Oil Corporation to vacate the leased land. The Hon'ble Supreme Court observed that they are unable to give their imprimatur to the view taken by the Hon'ble Division Bench since they are of the view that appropriate remedy for the writ petitioner was to approach the competent Court by filing a suit.

4.On the other hand, the learned counsel for the petitioner drew my attention of the decision of the Hon'ble Supreme Court reported in **(2021) 13 SCC 121 (National Company Vs. Territory Manager, Bharat Petroleum Corporation Limited)**. The appellant therein moved the Madras High Court for directing Bharat Petroleum Corporation Limited to vacate the property. The Hon'ble Division Bench denied relief. Aggrieved by the same, he moved the Hon'ble Supreme Court. The Hon'ble Supreme Court set aside the order of the Hon'ble Division Bench and directed Bharat Petroleum Corporation Limited to vacate and hand over peaceful and vacant possession of the premises to the appellant.



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5.It cannot be denied that Bharat Petroleum Corporation Limited is a Government of India undertaking. That is why, it is amenable to writ jurisdiction in terms of Article 12 of the Constitution of India. It has to act in a fair and reasonable manner. If there are disputed questions of fact, certainly, the petitioners herein have to file a suit for enforcing their rights. The case on hand does not present any difficulty. Admittedly, the lease period of the first respondent had expired. It cannot be said to be in legal possession of the premises. Therefore, as held in the decision reported in **(2021) 13 SCC 121 (National Company Vs. Territory Manager, Bharat Petroleum Corporation Limited)**, this writ petition can very well be maintained and relief granted.

6.In this view of the matter, the first respondent is directed to hand over vacant possession of the premises in question within a period of four months from the date of receipt of a copy of this order.

7.This writ petition is allowed accordingly. No costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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