



C.R.P (PD) No.2755 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2025

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THE HONOURABLE MS. JUSTICE P.T. ASHA

C.R.P (PD) No. 2755 of 2023

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C.M.P.No. 16983 of 2023

1.Hindustan Petroleum Corporation Limited,
A Government of India Undertaking
Having its Registered Office at
No.17, Jamshedji Tata Road,
Mumbai – 400002.
Represented by its Managing Director.

2.Hindustan Petroleum Corporation Limited,
A Government of India Undertaking
Having its Registered Office at
Thalamutu Natrajan Building
Gandhi Irwin Road,
Egmore, Chennai – 600008.

... Petitioners

VS.

Saroj Rajanikant

... Respondent



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Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order made in IA.No.1 of 2022 in OS.No.2314 of 2022 dated 07.06.2023 pending on the file of the XX Additional District and Sessions Court, City Civil Court, Chennai.

For Petitioner : Mr. Mohammed Fayaz Ali

For Respondent : Mr. Venkateswaran
For Mr. M.Sankar

ORDER

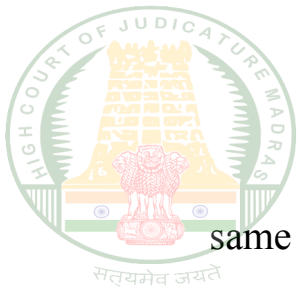
Challenging the dismissal of their application for rejecting the plaint filed in IA.No.1 of 2022 in OS.No.2314 of 2022 on the file of the XX Additional District and Sessions Court, City Civil Court, Chennai, the defendants are the petitioners before this Court. The parties are referred to in the same ranking as before the Trial Court.



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WEB COPY 2. The plaintiff had filed the suit OS.No.2314 of 2022 claiming damages of a sum of Rs.99,00,000/- together with future interest at 12% per annum. It is the case of the plaintiff that the property bearing Old Door No.95, New Door No.178, Poonamallee High Road, Kilpauk measuring about 4600 Sq.ft., was owned by her father. He had leased out the same to Caltex in the year 1943. By an act of Parliament in India all foreign companies doing business in India were acquired by Central Government and all the assets and liabilities and contracts and other rights were also taken over.

3. Under the said Act Caltex (India) Ltd., was taken over by the Central Government by which all the assets, liabilities contracts, obligations, etc., of the erstwhile Caltex vested with the Central Government by virtue of the statutory provisions. The defendant company had taken over the above assets and the lease was renewed for further period of 20 years commencing from 01.07.1994 on the very



same terms and conditions in lease deed dated 16.10.1974. The defendant company had also exercised its automatic right of renewal for 20 years and had become statutory tenant under the plaintiff.

4. The plaintiff would submit that there was no written contract or lease agreement signed by the defendant. After the expiry of the lease period since the defendant have not vacated the premises the plaintiff filed a suit for recovery of possession in CS.No.243 of 1987 before this Court.

5. The defendant had filed written statement and had also taken out an application under Section 9 of the Madras City Tenants Protection Act, 1920 in A.No.5068 of 1988 on the ground that the super structure had been put up by them. The suit was later transferred to the City Civil Court, Chennai when the pecuniary Jurisdiction of this Court had been revised. The suit was assigned a new number OS.No.3416 of 1997. A.No.5068 of 1988 was re-numbered as



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IA.No.18682 of 2002.

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6. The suit came to be dismissed by the Trial Court, namely, XVI Assistant City Civil Court, Chennai, by Judgement and Decree dated 27.03.2003 and the Section 9 application filed by the defendant was allowed.

7. The plaintiff has challenged the said Judgement and Decree by filing AS.No.511 of 2008 on the file of the IV Additional City Civil Judge, Chennai, against the Judgement and Decree in the suit and CMA.No.75 of 2004 was filed against the order in IA.No.18682 of 2002. The CMA was decided in favour of the plaintiff and consequently AS.No.511 of 2008 came to be dismissed.

8. Thereafter, the plaintiff had filed EP.No.1354 of 2010 for recovery of possession. The Judgement of the Appellate Court was challenged by the defendant in SA.No.555 of 2010, which also came to



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be dismissed on 29.04.2013 and the Judgement in CMA.No.75 of 2004 was challenged in CRP.No.2006 of 2010 which is also dismissed. The special leave petition to the Hon'ble Supreme Court also ended against the petitioner declaring that the lease entered into between predecessor in title of the plaintiff and the defendant is void.

9. The plaintiff would submit that the as per the Judgement and Decree the defendant should vacate the possession within 3 months and the relief of damages was to be decided in separate proceedings. This Judgement has been confirmed. Therefore, the plaintiff had come forward with the instant suit claiming damages for use and occupation from 15.01.1987 to 14.12.2009.

10. The defendant on receiving summons and after filing their written statement had come forward with the application for rejecting the plaint.



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WEB COPY 11. In the written statement the defendant had taken a plea that the possession of the property was delivered on 22.11.2021 and the Judgement and Decree of the Hon'ble supreme Court came to be passed on 28.01.2020. After receiving possession the suit for recovery of damages has been filed on 07.03.2022 and that too for a period from 15.01.1987 to 22.11.2021, which is clearly barred by limitation as well as *res judicata*.

12. It was the very same plea that was taken in the application filed by them for rejecting the plaint. The reasons that have been given therein is that the relief sought in OS.No.3416 of 1987 was rejected by the Trial Court as well as the Appellate Court. Therefore, the present suit was barred by *res judicata*. That apart, the claim of damages from the year 1987 is clearly barred by limitation.



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WEB COPY 13. The plaintiff had filed a counter contending that the Appellate Court had granted permission to file a separate suit for damages. Therefore, the question of res judicata would not arise. That apart, it could not be stated that the claim is barred by limitation since in the earlier proceedings in AS.No.511 of 2008, the learned Judge had observed that claim of damages had been relegated to another proceedings.

14. The learned Trial Judge on considering above facts and also the records came to the conclusion that both pleas taken for rejecting the plaint cannot be granted and dismissed the application as against which the defendant is before this Court.

15. Heard the learned counsels on the either side.



16.The application for rejecting the plaint has been filed on the grounds of *res judicata* and limitation. As regard the issue of *res judicata* it is seen that in the earlier suit OS.No.3416 of 1997 the relief of damages was directed to be decided in separate proceedings. The instant suit is a suit claiming damages and therefore prima facie a separate proceeding. Therefore, the contention of the defendant in this regard cannot be granted. As regards limitation it is a mixed question of law and facts which has to be decided after trial and arguments. Therefore, the revision has to be dismissed.

17. The learned counsel for the defendant / revision petitioner would submit that the Judgement is yet to be passed in the suit and any observations made here would work against the plaintiff in the suit. The learned counsel was however not able to get over the findings of the learned XX Additional District and Sessions Judge, City Civil Court, Allikulam, dismissing the petition for rejecting the plaint.



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WEB COPY 18. Therefore, the Civil Revision Petition is dismissed. It is made clear that the learned Trial Judge shall dispose of the suit on its merits without being influenced by the observations made by the learned Judge while dismissing IA.No.1 of 2022. Consequently, the connected miscellaneous petition is closed. No costs.

08.04.2025

Index: Yes/No
Internet: yes/No

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To

The XX Additional District and Sessions Court,
City Civil Court,
Chennai.

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P.T. ASHA.J

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