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24.03.2023
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CPAN 1165 of 2022

In
 WPA 8594 of 2021
 IA NO: CAN 1 of 2023, CAN 2 of 2022
 With
CPAN 355 of 2023

Mr. Rachit Lakhmani
 Mr. R. N. Bandyopadhyay
 ...for the petitioner
 Mr. Saptangshu Basu, Sr. Adv
 Mr. Subhrendu Halder
 Mr. Abhirup Halder
 ...for the respondents

Leave is granted to correct the cause title.

Affidavit in opposition filed on behalf of the petitioner to CAN 2 of 2022 and CAN 1 of 2023 in Court are taken on record.

Copies of the same have been served upon the other side.

In Re: CAN 2 of 2022

This is an application made by the respondent-Oil Company to place before this Court in sealed envelope copies of documents that contain proposal and approval note towards termination of the petitioner's dealership.

Learned senior counsel representing the respondent-Oil Company submits that since a prayer for writ of certiorari is already there, there is no need to proceed with

this application. However, if this application is allowed, the respondent-Oil Company shall be in a position to place on record copies of relevant documents.

Learned counsel appearing on behalf of the petitioner objects to the prayer and submits that there is no reason whatsoever as to why any document shall be relied on without supplying copies of the same to the petitioner.

Moreover, the documents in question are neither privileged communications nor protected from disclosure by the Official Secrets Act or any other law of the land.

As a prayer has already been made for issuance of a writ of certiorari, there is no need for the respondent-Oil Company to file such an application. If need be, the Court will call for the records of the case.

Accordingly, the application being CAN 2 of 2022 is disposed of.

In Re: CAN 1 of 2023

This application has been filed by the Oil Company purportedly for recalling of the order dated 20.02.2023 wherein an undertaking on behalf of the oil company was recorded for resuming supply of oil to the petitioner.

Learned senior counsel representing the Oil Company submits that the learned advocate representing the petitioner on 20.02.2023 has affirmed an affidavit stating that he did not submit that the respondent-Indian Oil

Company Limited undertook to resume supply of oil if further order is passed. Accordingly, the order may be corrected.

Learned counsel appearing on behalf of the petitioner submits as follows. On 20.02.2023, it was the submission of the learned counsel for the Oil Company from the very beginning that if the order was clarified, the Oil Company would resume supply of oil to the petitioner.

First, the order was dictated in open Court.

Secondly, learned counsel did not approach this Court with a prayer for correction of the order at the earliest point.

So, whether the word 'undertaking' was exactly used by the petitioner or not cannot be ascertained at the present.

However, this Court is absolutely certain that on the particular day the learned counsel for the Oil Company, in unequivocal terms, submitted that the Oil Company was under a dilemma, after going through the order passed by this Court, about whether to resume supply of oil or not and that in the event the order was clarified, the oil company would resume supply of oil. This clearly amounted to an undertaking. Therefore, this Court does not find anything wrong in using the expression 'undertaking' in the impugned order.

In any event, the Court is not bound by the exact terminology used by learned counsel for the parties.

In fact, among other things, the offer to resume supply of oil had weighed with the Court not to issue a Rule of

Contempt on that day.

Therefore, I do not find any merit in this application.

Accordingly, the same is dismissed.

In Re: WPA 8594 of 2021

Learned senior counsel representing the petitioner prays for an adjournment for obtaining necessary instructions in addressing the Court for final hearing of the case.

On his prayer, list this matter for hearing on 28.03.2023 at 2 PM.

The interim order, granted earlier, shall remain extended till 04.04.2023.

In Re: CPAN 1165 of 2022

As the main application being WPA 8594 of 2021 has been fixed for hearing on 28.03.2023, let the contempt application come up in the list for hearing on the same date.

Urgent photostat certified copies of this order may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)