

*IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4544/2017

(@Petition(s) for Special Leave to Appeal(C) No.14214/2012)

INDIAN OIL CORPORATION & ORS.

Appellant(s)

VERSUS

M/S. BAPUJI FUELS

Respondent(s)

O R D E R

Leave granted.

We have heard Ms. Meenakshi Arora, learned Senior counsel appearing for the appellants and the learned counsel appearing for the respondent.

The brief facts of the case are as follows:-

A dealership agreement dated 22-12-2004 was executed between the appellants and the respondent herein by way of which the respondent was appointed as the dealer of the appellants for the retail, sale and supply of Petrol/High Speed Diesel/Motor Oil/Grease and other petroleum products. The Field Officer conducted inspection of the respondent's retail outlet on 19-6-2007 and stock variation was found to be within permissible limits and no other irregularities were also observed. However, on 20-6-2007, the Industry Mobile Lab In-Charge, later joined by the Field Officer, conducted joint investigation on 20-6-2007 and following observations were made:-

(i) An excess stock of 5160 litres in High Speed Diesel was observed;

(ii) Since both the DUs of HSD were inoperative (a) delivery check, (b) market checks and (c) density checks could not be conducted.

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(iii) Stock variation, delivery, density and marker checks for other two products XP and XM were found to be in order.

On 23-6-2007, the Field Sales Officer along with D.U. Mechanic and Electrician again visited the Outlet and one of the H.S.D's DU was operated manually and samples drawn for lab test.

It is pointed out by the learned Senior counsel that a positive stock variation of 5160 litres in HSD was observed and the dealer has acknowledged the inspection report by putting his signature and seal. Due to stock variation beyond permissible limits, in accordance with M.D.G. Guidelines, sales and supplies of outlet were suspended and DUs and tanks were sealed. It was also found that the dip of the tank had changed from 110.2 cm from 66.4 cm although the seals of the DUs and tanks were intact.

It is pleaded by the learned counsel appearing for the sole respondent that the dealer has signed the Inspection Report in good faith and the Corporation officials took advantage of his physical ailment.

The aforesaid plea of the learned counsel for the respondent is not sustainable as it was the duty of the concerned person to see the contents of the Inspection Report before putting his signature therein and now he cannot take the advantage thereof.

In view of the above and after carefully perusing the material available on record, we find that the High Court was wrong, in the given facts of this case, by quashing the order of termination as also the order of the appellate authority, as the termination order, in our considered view, passed by the appellants Indian

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Oil Corporation was in accordance with the law and in terms of the guidelines issued by the appellant in the matter in question.

Accordingly, we set aside the impugned Judgment of the High Court.

As a consequence thereof, the order of termination being Annexure-11 passed by the appellants against the respondent shall be given effect to.

The Appeal is allowed in the afore-stated terms.

.....J
(PINAKI CHANDRA GHOSE)

.....J
(ROHINTON FALI NARIMAN)

NEW DELHI;
27TH MARCH, 2017.

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ITEM NO.38

COURT NO.6

SECTION XIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 14214/2012
(Arising out of impugned final judgment and order dated 17/01/2012
in WP No. 9519/2009 passed by the High Court of Orissa at Cuttack)
INDIAN OIL CORPORATION & ORS. Petitioner(s)

VERSUS

M/S. BAPUJI FUELS Respondent(s)
(With interim relief and office report)
(For final disposal)

Date : 27/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s)

Ms. Meenakshi Arora, Sr. Adv.
Ms. Sangeeta Mandal, Adv.
Ms. Swati Sinha, Adv.

For M/s Fox Mandal & Co., Advts.

For Respondent(s)

Mrs. Rajdipa Beheura, Adv.
Ms. V.S. Lakshmi, Adv.

Mr. A. Venayagam Balan, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(VISHAL ANAND) (SNEH LATA SHARMA)

COURT MASTER

COURT MASTER

(Signed Order is placed on the file)