

**IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI**

**WRIT PETITION No.4393 of 2024**

% Dated 13.09.2024

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Smt. Metta Visalakshmi  
Aged 72 years,  
w/o Sri M. Balakrishna Rao,  
occ: Homemaker, r/o 3-7-44/C2,  
Katteraveedhi, Srikakulam-532 001

..... Petitioner

Versus

Union of India,  
Rep. by its Secretary,  
Ministry of Petroleum and Natural Gas,  
Shastri Bhavan,  
New Delhi – 110 001 & 22 others

.... Respondents

JUDGMENT PRONOUNCED ON: 13.09.2024

**THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**

Whether Reporters of Local newspapers  
may be allowed to see the Judgments?

Whether the copies of judgment may be marked to Law  
Reporters/Journals

Whether Their Ladyship/Lordship wish to see the fair copy  
of the Judgment?

**+ HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**

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.... Respondents

Counsel for the Appellants	:	Mr. P. Lakshmana Rao
Counsel for Respondent No.1	:	Mr. Arun Showri
Counsel for Respondent Nos.2 & 3	:	Mr. V.V. Satish
Counsel for Respondent No.4	:	Mr. Gollamudi Arun Kumar

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> HEAD NOTE:

? Cases referred

1. (2006) 1 SCC 228
2. (2020) 1 ADJ 406 (ALL)
3. (2015) 8 SCC 519
4. (1991) 1 LLJ 395 SC
5. AIR 2013 SC 565

**THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**  
**WRIT PETITION No.4393 OF 2024**

**ORDER:-**

1. This writ petition is filed under Article 226 of the Constitution of India, claiming the following relief:

*“To issue writ of mandamus to declare the decision on grievance Ref USDIS/P/2024/0000007 dated 22.12.2023 received on 03.01.2024 by the Respondent No 1 and the letter of appointment issued by the Respondent No 3 to Respondent 4 vide Ref VT/SKM/BHYRI VILLAGE/G dated 30 03 2021 as illegal arbitrary unreasonable and unconstitutional and it amounts to violation of Articles 14, 16, 21 and 300A of the constitution of India and contrary principles of natural justice and set aside the same direct the respondent 1 to pass orders in terms of Rule 1521 of the Petroleum Rules 2002”*

2. The brief facts of the case in nut-shell are that, the petitioner purchased land of an extent of Ac.0-29 cents in Sy.No.31-2C in Bhyri Village, Srikakulam District vide Registered Sale Deed bearing Document No.4406/2018. Similarly, on the same day i.e. 23.06.2018, father of Respondent No.4 also purchased land of Ac.0-29 cents in Sy.No.31-2C, Bhyri Village, Srikakulam District vide Registered Sale Deed bearing Document No.4407/2018. While so, the respondent BPCL advertised for retail outlet in Bhyri Village under

regular/open category and in conservance to the public notification, Respondent No.4 applied for the same. After due procedure and selection, a letter of intent was issued by Respondent No.3 to Respondent No.4 specifying the condition that the land arranged by Respondent No.4 should be acquired by way of registered lease for a minimum period of 19 years 11 months. Respondent No.4 approached the petitioner and offered 50% partnership and sought to give petitioner's land of an extent of Ac.0-29 cents in Sy.No.31-2C to establish the subject retail outlet, whereas, Respondent No.3 issued a Letter of Appointment to Respondent No.4 even though the conditions of acquisition of land ownership or lease condition as specified in the Letter of Intent is not fulfilled and got registered the firm as sole proprietor and did not get any lease in respect of petitioner's land and also not constituted any partnership with the petitioner as promised, and further submitted the created documents in respect of entire extent including petitioner's land. Thereafter the petitioner was suspicious about the promise made, and conduct of Respondent No.4, and came to know about the condition in the Letter of Intent issued by Respondent No.3 with regard to required land. The petitioner's son filed an application under Right to Information Act, 2005 seeking copy of lease document. The said application was rejected by the concerned authority. Thereafter, the petitioner preferred an appeal to the Appellate Authority. The Appellate Authority disposed the appeal stating that the affidavit given by the

petitioner to Respondent No.3 is not true. It is contended that, though, father of Respondent No.4 Bhyri Suryanarayana was not the owner of the entire land i.e. Ac.0.29 cents + Ac.0.29 cents = Ac.0.58 cents of land, but, he leased out Ac.0-54 cents in Sy.No.31-2C to his son as if he is owner and in turn Respondent No.4, arranged entire land for retail outlet for ten years. Though the petitioner approached Respondent No.1 and sought justice in the matter, Respondent No.3 sent a letter stating that the committee intends to look into certain documents. A grievance was lodged in the Public Grievance Portal, wherein, Respondent No.1 closed the complaint based on the letter of Respondent No.3, without looking into the matter. Aggrieved by the action of the respondents, the present writ petition is filed.

3. Respondent Nos.2 & 3 filed common counter affidavit, denying the allegations made in the affidavit. It is submitted as follows:

- a. The petitioner never approached this corporation seeking partnership in the dealership and there is not even a proposal for reconstitution process and thus the understanding or offer of partnership without obtaining written consent from this corporation is illegal.
- b. The letter of intent was issued in favour of the 4<sup>th</sup> respondent on 28-08-2019; and the 4<sup>th</sup> respondent commenced the business in the

premises since 2021. But, the writ petitioner, remained silent till November, 2023. Upon receipt of complaint from the petitioner, Corporation issued letters dated 26.12.2023 and 16.01.2024 asking her to submit the documents for the purpose of investigation into the allegation. But, the petitioner has not responded to the above requisition. The Public Information Officer given reply to the application under Right to Information Act, 2005 and the allegation that the Territory Manger, PIO or First Appellate Authority have informed 4<sup>th</sup> respondent to resolve the issue amicably is false.

- c. The First Appellate Authority had disposed of the appeal taking into account of notarized affidavit submitted by her and the allegation that the petitioner did not submit such an affidavit is false. The orders passed by the First Appellate Authority have become final and the petitioner did not challenge the orders and thus it is not open to the petitioner to disown her affidavit. Since the affidavit produced is a notarized affidavit, the orders passed by First Appellate Authority cannot be found fault with.
- d. The allegation that the respondents, Public Information Officer and First Appellate Authority are in nexus with Respondent No.4 and have malafide intention to grab her land are false and baseless. The outlet

was advertised under dealer controlled category wherein land is not required to be leased to the respondent and thus all the fixed structures are constructed by dealer. The corporation provides only movable facilities. Therefore, there is no justification or basis in the allegations of the petitioner that the officials of BPCL are intending to grab her land. The retail outlet is functioning from March, 2021 and the petitioner did not raise any objection against the premises of the outlet. However, upon receipt of complaint, the respondent corporation appointed three members committee to investigate the complaint. The committee visited the outlet and discussed with the petitioner. Thereafter, the committee requested to provide relevant land documents vide letters dated 26.12.2023 and 16.01.2024 so that the investigation can be concluded. The investigation into the complaint of the petitioner is not yet concluded for want of submission of requisite documents.

- e. The allegation that the officials of the respondent corporation approached the petitioner upon filing police complaint by her is false.

4. Respondent No.4 filed counter affidavit contending as follows:

- a. The writ petitioner did not approach this Court with clean hands and by suppressing the facts, with a malafide intention to enrich

herself under the principle “Doctrine of Unjust Enrichment” in order to cause loss to the respondent.

b. The Writ Petitioner instead of approaching an appropriate alternative forum for adjudication of her grievance, approached this Hon'ble Court Under Article 226 of the Constitution of India. The grievance of the Writ Petitioner itself involves an elaborate trial in order to bring out the true and appropriate facts and as such, invoking Article 226 of the Constitution of India while seeking the reliefs as prayed for merits no consideration at the hands of this Hon'ble Court. The writ petition is not maintainable and is liable to be dismissed. The Petitioner instead of filing an application before the appropriate Court, has filed the present petition under Article 226 of the Constitution of India is nothing but an abuse of the process of law when an alternate remedy is available. The Hon'ble Supreme Court of India has settled the law pertaining to the alternate remedy under "Doctrine of Alternative Remedy".

c. The Writ Petitioner intentionally did not file Page No.2 of the Regd. Lease Deed dated 21.08.2023 bearing Doct. No.7814/2023 SRO Srikakulam which is vital and shows that the

father of this Respondent is the absolute owner of the land in an extent of Ac.0.58 cents vide Khata No.748 situated in Survey No.31/2C of Bhyri Village, Srikakulam and for which, the land conversion for an extent of Ac.0.54 cents is completed. The said land was given for lease to "M/s. Sri Rajasurya Vishalakshmi (SRSV) Filling Station" for a period of 9 years 11 months and this Respondent has agreed to pay a rent of Rs.1,00,000/- (Rupees One Lakh only) towards yearly rent and gave an amount of Rs.2,00,000/- (Rupees Two Lakhs only) towards advance which is refundable.

- d. The act of the Writ Petitioner is intentional and is only to harass the Respondent for a wrongful gain in her favour at the instigation of her sons, and daughter-in-law. The same is duly evident from the FIR and also in the Special Power of Attorney stated to be executed by the Writ Petitioner in favour of her daughter- in-law wherein the Writ Petitioner did not sign on the Special Power of Attorney instead stated to be kept her Lefthand Thumb Impression.
- e. The Respondent No. 3 issued letter of appointment only after the Respondent No.4 met the required norms as per the Petroleum

Act and Rules and also in accordance with the norms of the Bharat Petroleum Corporation Limited. The Respondent No.4 has obtained all the necessary permissions from the concerned Government Departments and furnished a copy of the same to the Respondent No.3. The Respondent No.3 only after perusing the approvals from the concerned departments has accorded Letter of Appointment to this Respondent No.4. At no point of time have the Respondents acted arbitrarily in according the Letter of Appointment. Only after receiving the Letter of Appointment, this Respondent No.4 invested huge amounts and established the "M/s. Sri Rajasurya Vishalakshmi (SRSV) Filling Station" in an extent of Ac.0.58 cents situated in Survey No.31/2C in Bhyri Village, Srikakulam District in the land owned by the father of the Respondent only after necessary documentation. The allegation of the Writ Petitioner against the Respondents is false and baseless and the Petitioner is put to strict proof of the same.

- f. It is only true to the extent that this Respondent stood as a witness for the schedule property purchased by the Petitioner. On 23.06.2018, the Petitioner and the father of this Respondent separately purchased an extent of Ac.0.29 cents of the land

situated in Survey No.31/2C in Bhyri Village, Srikakulam District under two separate Regd. Sale deeds vide Doct. Nos.4406/2018 and 4407/2018. As the registrations of the lands took place on the same date, and out of the acquaintance the Petitioner had with the father of this Respondent and this Respondent, this Respondent stood as a witness upon the request made by the Petitioner for the land purchased by her.

- g. Respondent No.4 specifically denied the allegation made by the Petitioner that this Respondent had proposed to establish a retail outlet on the land owned by the Petitioner and offered a 50% partnership in the retail outlet and asked her to permit to erect the same on the land owned by her and the Petitioner is put to strict proof of the same.
- h. Respondent No.4 never intended to make the Petitioner a partner in his business. "M/s. Sri Rajasurya Vishalakshmi (SRSV) Filling Station" is only a proprietary concern wherein this Respondent is the absolute owner of the same. Neither there is an oral nor written agreement between the Petitioner and this Respondent pertaining to the Partnership at any point of time. The Petitioner has come up with false averments in order to obtain wrongful gain

in her favour and wrongful loss to this Respondent and the same is non-est in the eye of the law.

- i. The Writ Petitioner is not an applicant and did not file an application for the allotment of the retail outlet along with the Respondent No.4. The Writ Petitioner is not a partner to the Respondent No.4. She never invested any amounts for obtaining the retail outlet. Respondent No.4 never sought the land owned by the Writ Petitioner for the establishment of the retail outlet. The Respondent No.4 established the retail outlet on the land owned by his father.
- j. Respondent No.4 after obtaining necessary permissions from the concerned Government Departments has established the "M/s. Sri Rajasurya Vishalakshmi (SRSV) Filling Station" in the land owned by the father of this Respondent. The Respondent No.3 only after perusing all the documents and having met all the norms of Respondent No.3, issued a letter of appointment to Respondent No.4.
- k. Respondent No.4 specifically denied the allegation that this Respondent dishonestly possessed the land of the Petitioner and established the retail outlet.

- l. The Petitioner in support of her contention, did not produce cogent documentary evidence to show that this Respondent has dishonestly possessed the land of the Petitioner except a vague allegation. This Respondent has constructed the retail outlet only on the land owned and possessed by his father only after obtaining necessary documentation in favour of this Respondent/Proprietary concern.
  
- m. On 11.12.2018, a "NOTARIZED AFFIDAVIT FOR OFFER OF LAND FROM FAMILY MEMBERS SUPPORTED BY LAND DOCUMENTS" was executed between this Respondent and the father of this Respondent wherein the father of this Respondent has issued No Objection for letting out the property owned and possessed by him in Survey No.31/2C an extent of Ac.0.58 cents of land in Bhyri Village, Srikakulam Rural Taluq, Srikakulam District either sell/transfer/lease to this Respondent. The father of this Respondent who falls under the category of "Family Members" offered the land owned and possessed by him in an extent of Ac.0.58 cents in Survey No.31/2C of Bhyri Village, Srikakulam District for sell/transfer/lease in case this Respondent is selected for Retail Outlet dealership. The document was

handed over to the Respondent No.3. Subsequently, a regular registered lease deed for a period of 19 years 11 months was executed by the father of the respondent in favour of M/s. Sri Rajasurya Visalakshmi (SRSV) Filling Station. As such, Respondent No.4 has fulfilled the norms to establish Retail Outlet as per the requirements of Respondent No.3.

- n. There is no agreement between the Petitioner and this Respondent at any point in time. As such, the signing of the Petitioner on the lease agreement does not arise at all. The Respondent No.3 issued letter of appointment only after the Respondent No.4 met the required norms as per the Petroleum Act and Rules and also in accordance with the norms of the Bharat Petroleum Corporation Limited. The Respondent No.4 has obtained all the necessary permissions from the concerned Government Departments and furnished a copy of the same to the Respondent No.3. The Respondent No.3 only after perusing the approvals from the concerned departments has accorded Letter of Appointment to this Respondent No.4. At no point of time have the Respondents acted arbitrarily in according the Letter of Appointment. The allegation of the Writ Petitioner against the

Respondents is false and baseless and the Petitioner is put to strict proof of the same.

- o. There are no suspicious activities carried out by this Respondent No.4. The Petitioner who remained silent all these years with a view to harass this Respondent for wrongful gain with a hand in glove through her son filed an RTI application by seeking information from the BPCL authorities and the BPCL authorities rightly denied the same as per the provisions of the Right to Information Act.

5. The writ petitioner filed rejoinder to the counter affidavit filed by Respondent Nos.2 & 3, denying material allegations, reiterating the contentions urged in the writ affidavit.

6. During hearing, Sri P. Lakshmana Rao, learned counsel for the petitioner submits that, petitioner is the sole absolute owner and possessor of land admeasuring an extent of Ac.0-29 cents in Sy.No.31-2C, Bhyri Village, Srikakulam District, having acquired the said property through registered sale deed bearing Document No.4407/2018 dated 23.06.2018. After such acquisition, she has been in possession and enjoyment of the subject property. Ignoring the said unfettered fact, creating a lease deed by

Respondent No.4 with the active connivance of his father, being a lessor, submitted the same to Respondent Nos.2 & 3 for granting Letter of Intent in respect of Petroleum Retail Outlet at subject place is contrary to Section 17(d) of the Registration Act, 1908.

7. He submits that, the alleged lease deed said to have been executed by the father of Respondent No.4 in favour of M/s. Sri Raja Surya Visalakshi Filling Station for a period of 20 years is contrary to the provisions of the Registration Act, 1908 and also under the provisions of the Transfer of Property Act, 1882. He submits that, Respondent No.4 with the connivance of his father and with active support of Respondent No.3, created a lease deed in favour of firm describing the petitioner as one of the party to the document as Lessor along with the father of Respondent No.4 without there being any signatures on part of the petitioner and made believe that the said lease deed said to have been executed by the petitioner also is nothing but creating forged documents with an intention of mischief, cheating and criminal breach of trust. As such, Respondent Nos.2 & 3 being public authorities cannot proceed on the basis of alleged lease deed without conducting any proper enquiry physically and without verifying the title, possession and genuineness of the documents, which is mandatory, while granting license/dealership on part of Respondent Nos.2 & 3. Therefore, it is contended that, fraud vitiates

all the proceedings, as such the alleged lease deed in favour of the lessee is not valid and illegal, forged deed only.

8. He further submits that, as per Rule 152(1)(i) of the Petroleum Rules, 2002, every licence granted under these rules shall stand cancelled, if the licensee ceases to have any right to the site for storing petroleum if the licensee ceases to have any right in respect of subject site, as such, in the present case, Respondent No.4 being a licensee, does not have any right in respect of part of the property i.e. Ac.0-29 cents in Sy.No.31-2C, Bhyri Village, Srikakulam District. In the absence of any document in his favour, Letter of Intent dated 28.08.2019 is liable to be set-aside with damages.

9. Learned counsel for the petitioner submits that, Respondent Nos.2 & 3 being public authorities shall observe principles of natural justice, procedural fairness in making a decision process. But in the instant case, Respondent Nos.2 & 3 ignored the basic principle and proceeded without observing the same granting Letter of Intent in favour of Respondent No.4, which is nothing but illegal, arbitrary and contrary to the public policy.

10. He further submits that, the said action of Respondent Nos. 2 & 3 is without making any verification and without getting any required documents and without affirming genuineness of the documents submitted by

Respondent No.4 and granting Letter of Intent in favour of Respondent No.4 is nothing but infringing the fundamental rights as well as the constitutional right guaranteed to the petitioner under Articles 21 & 300-A of the Constitution of India. Therefore, the impugned order dated 16.01.2024 directing the petitioner to provide documents for investigation by their committee is sought to be set-aside.

11. In support of his contention, Learned counsel for the petitioner relied upon the ratio laid down by the Hon'ble Apex Court in **C. Albert Morris vs. K. Chandrasekharan**<sup>1</sup>, **Puneet Kumar Singh vs. Bharat Petroleum Corporation Ltd**<sup>2</sup>, **Dharampal Satyapal Limited vs. Deputy Commissioner of Central Excise, Gauhati and others**<sup>3</sup>.

12. Sri V.V. Satish, Learned Standing Counsel for Respondent Nos. 2 and 3 argues that the petitioner has failed to provide the necessary documents as requested by the Corporation vide their letters dated 26.12.2023 and 16.01.2024. This lack of cooperation from the petitioner is hindering further investigation into the allegations raised. Consequently, the petitioner is not in a position to claim any improper collusion between Respondent Nos. 3 and 4. Additionally, it is emphasized that once a notarized affidavit is submitted by the

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<sup>1</sup> (2006) 1 SCC 228

<sup>2</sup> (2020) 1 ADJ 406 (ALL)

<sup>3</sup> (2015) 8 SCC 519

petitioner, it cannot be contested as to its execution. The appellate authority has already addressed the petitioner's appeal or representation under Right to Information Act, 2005 and further investigation remains ongoing. Therefore, until the investigation is complete, the petitioner should not be permitted to seek intervention from this Court.

13. He further submits that, The Letter of Intent was issued on 28.08.2019, and a Letter of Acceptance was granted to Respondent No. 4 on 13.03.2021. The retail outlet began operations after the Letter of Acceptance was issued. However, the petitioner remained silent on the matter until November 2023. The allegations made thereafter appear to be a mere afterthought.

14. He also submits that, Respondent Nos. 2 and 3 have appointed an investigation committee, and the investigation is still underway, awaiting the submission of essential documents from the petitioner. Due to the petitioner's lack of cooperation, the investigation has not yet been completed. Therefore, the petitioner's grievance lacks merit, and as there are no substantive grounds for the writ petition, it should be dismissed.

15. Sri G. Arun Kumar, learned counsel appearing for Respondent No.4 submits that the present writ petition is liable to be rejected on the ground that the petitioner is available with effective alternative remedy before appropriate

Court of law. He submits that, the grievance of the petitioner involves disputes which require elaborate trial in order to bring out true and appropriate facts. Therefore, invocation of jurisdiction under Article 226 of the Constitution of India is not maintainable and liable to be dismissed and it is nothing but abuse of process of law, when an alternative remedy is available.

16. He further submits that the respondent was issued Letter of Intent in the year 2019 and after compliance of all the requirements as per the Tender Notification, Respondent No.3 issued Letter of Acceptance dated 13.03.2021. Pursuant to the issuance of Letter of Acceptance, the petitioner commenced the operations of retail outlet. Now, making allegations by the petitioner against the respondent is nothing but for taking undue advantage and unjust enrichment only.

17. He contends that, father of Respondent No.4 is the absolute owner of land admeasuring an extent of Ac.0-54 cents in Sy.No.31/2C vide Khata No.748, L.C.No.152, who got converted the land into land for non-agricultural purposes to an extent of Ac.0-54 cents. After such conversion, father of Respondent No.4 executed lease deed in favour of Sri Raja Surya Visalakshmi Filling Station represented by its proprietor – Respondent No.4 in whose favour the Letter of Intent as well as Letter of Acceptance was granted

by Respondent No.3 after compliance of all the requirements in favour of Respondent Nos.2 & 3.

18. He also affirms that, pursuant to the lease deed, father of Respondent No.4 as well as Respondent No.4 submitted a notarized affidavit in favour of Respondent Nos.2 & 3, as required, for granting Letter of Intent by Respondent Nos.2 & 3. The petitioner who remained silent all these years, with a view to harass the respondent for wrongful gain, hand-in-glove with her son, filed an application under Right to Information Act, 2005 and also lodged a complaint with the police. Further, the writ petitioner is neither a partner nor party to the proprietary concern and did not invest any amount for obtaining outlet and Respondent No.4 established outlet on his own and the leased land is owned by his father. Therefore, the writ petition is liable to be rejected.

19. Heard learned counsel for the petitioner, learned Standing Counsel for Respondent Nos.2 & 3 and learned counsel for Respondent No.4.

20. On perusal of the material placed on record before this Court by the petitioner as well as Respondent Nos.2 to 4, it appears that, originally, land admeasuring an extent of Ac.0-58 cents in Sy.No.31-2c in Bhyri Village, Srikakulam District was owned by one Sri Devarasetti Vittaleswara Rao. The said fact is elicited from Form 1-B/ROR dated 23.06.2018 issued by the

Tahsildar, Srikakulam, filed as Ex.P-45 along with the writ petition and also admitted by the recitals of the Registered Sale Deeds of the petitioner and father of Respondent No.4, as mentioned supra.

21. The Registered Sale Deed Document No.4406/2018 dated 21.06.2018 proves that the petitioner herein acquired land of an extent of Ac.0-29 cents out of Ac.0-58 cents in Sy.No.31-2c in Bhyri Village, Srikakulam District from the original owner i.e. Devarasetti Vittaleswara Rao. It is also an admitted fact that father of Respondent No.4 also acquired remaining extent of land i.e. Ac.0-29 cents out of Ac.0-58 cents in Sy.No.31-2c in Bhyri Village, Srikakulam District from the very same landlord/original pattadar i.e. Devarasetti Vittaleswara Rao vide Registered Sale Deed bearing Document No.4407/2018 dated 23.06.2018. Both the documents were executed on the very same day. The boundaries mentioned in Registered Sale Deed bearing Document No.4407/2018 dated 23.06.2018 categorically indicates that on Eastern Side is bounded by the land of the petitioner only. Similarly, on Western side of the petitioner's land was bounded by the land belonging to father of Respondent No.4 i.e Bhyri Suryanarayana. All these facts and transactions affirms that the original land held by the vendor of the petitioner as well as father of Respondent No.4 is only land of an extent of Ac.0-58 cents in Sy.No.31-2C and the entire land is owned by the petitioner as well as father

of Respondent No.4 equally i.e..0-29 cents each. It is further observed that, there is no iota of evidence is putforth by Respondent No.4 that, except Ac.0-29 cents acquired under Sale Deed No.4407/2018 neither any other land is available nor acquired by petitioner.

22. Conveniently, neither Respondent Nos.2 & 3 nor Respondent No.4 filed any other document or registered deed(s) to prove their title other than Ac.0-29 cents by father of Respondent No.4 but, as if he himself acquired in an extent of Ac.0-58 cents in Sy.No.31-2C of Bhyri Village. Contrary to the said admitted fact, Form 1-B/Digital ROR Patta dated 21.08.2023 was filed by Respondent No.4 which shows that, father of Respondent No.4 is pattadar of land of an extent of Ac.0-54 cents in Sy.No.31-2C of Bhyri Village by way of purchase. Except digital copy of Form 1-B/Digital ROR dated 21.08.2023, no other document was filed to prove acquisition of land by the father of Respondent No.4. In fact the total land held by the original pattadar or vendor of the petitioner as well as father of Respondent No.4 is only Ac.0-58 cents in Sy.No.31-2C.

23. Surprisingly, Respondent No.4 did not file any other Registered Sale Deed except Document No.4407/2018 dated 23.06.2018 under which father of Respondent No.4 had acquired land of an extent of Ac.0-29 cents only. Curiously, vide Registered Lease Deed Document No.7814/2019 dated

21.08.2019 which is executed by the father of Respondent No.4 in favour of Sri Raja Sruya Visalakshmi Filling Station, represented by Respondent No.4 as Proprietor, recites the mode of acquisition of the lessor i.e. father of Respondent No.4 was explained that he acquired the subject schedule of the lease property through Registered Sale Deed bearing Document No.4407/2018 dated 23.06.2018 only. On the basis of the said lease deed, Respondent Nos.2 & 3 have granted Letter of Intent as well as Letter of Acceptance in favour of the lessee i.e Respondent No.4.

24. Knowing fully, Respondent Nos.2 & 3 neither filed any registered lease deed of proprietary concern which was submitted for granting Letter of Intent as well as Letter of Acceptance nor filed any other title deeds and other documents explaining the mode of acquisition of subject leased property. Except filing a digital copy of Form 1-B/Digital ROR under which Respondent No.4 is claiming title in respect of Ac.0-54 cents, which is contrary to the recitals of lease deed. As per recitals of lease deed, the lessor acquired only Ac.0-29 cents only. Admittedly, no other title deed or piece of evidence is produced before this Court to substantiate the acquisition of entire land of Ac.0-58 cents in Sy.No.32-1C of Bhyri Village, by the lessor/father of Respondent No.4.

25. In Paragraph No.4 of the counter affidavit filed by Respondent Nos.2 & 3 stating that the petitioner never approached the Corporation seeking partnership in the dealership and even there is no proposal for reconstitution of firm, thus such an understanding or offer of partnership without obtaining written consent from the corporation is illegal. The said submission of Respondent Nos.2 & 3 in the counter affidavit is nothing but interfering or infringing the fundamental right as well as the constitutional right of the petitioner guaranteed under Articles 21 and 300-A of the Constitution of India.

26. Furthermore, Respondent No.2 considering itself as a Quasi Judicial Adjudicatory Authority and investigator for its own cause, without transferring the issue to the appropriate or competent authority for proper enquiry or investigation or to initiate appropriate action pursuant to the report as well as representations of the petitioner. In addition, Respondent Nos.2 & 3 not acted as like public authority, muchless not adhered to Principle of Fair and Reasonableness. Moreover, all the acts and deeds of Respondent Nos.2 & 3 are shielding the criminal acts of Respondent No.4 i.e. cheating, criminal breach of trust, forgery and appears that fully colluded with Respondent no.4 for undue advantage.

27. Article 21 of the Constitution of India guarantees right to life. The right to life includes the right to livelihood. Time and again the Constitutional Courts in

India held that Article 21 is one of the great silences of the Constitution. The right to livelihood cannot be subjected to individual fancies of the persons in authority. The sweep of the right to life conferred by Article 21 is wide and far reaching. An important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Any person, who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred by Article 14 & 21 of the Constitution of India.

28. The right to live with human dignity, free from exploitation is enshrined in Article 21 and derives its life breadth from the Directive Principles of State Policy and particularly Clauses (e) and (f) of Article 39 and Articles 41 and 42 and at least, therefore, it must include the right to live with human dignity.

29. In “**Delhi Transport Corporation Vs. D. T. C. Mazdoor Congress**”<sup>4</sup>, the Hon’ble Supreme Court while reiterating the principle observed that the right to life includes right to livelihood. The right to livelihood therefore cannot hang on to the fancies of individuals in authority. Income is the foundation of

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<sup>4</sup> (1991)ILLJ395SC

many fundamental rights. Fundamental rights can ill-afford to be consigned to the limbo of undefined premises and uncertain applications. That will be a mockery of them.

30. Article 300-A of the Constitution of India, protects right of an individual, but such right in the property can be deprived of save by authority of law. The right to property is now considered to be not only a constitutional or a statutory right, but also a human right. Though, it is not a basic feature of the constitution or a fundamental right, human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment etc. Now, human rights are gaining an even greater multi faceted dimension. The right to property is considered, very much to be a part of such new dimension (Vide: ***Tukaram Kanna Joshi Vs. M.I.D.C***<sup>5</sup>).

31. Being public authority, Respondent Nos.2 & 3, while granting LOI & LOA in favour of Respondent No.4 in respect of subject leased property, a statutory duty is cast upon them to inquire into the genuineness of the documents and title of the lessor. But, in the case on hand, Respondent Nos.2 & 3 nowhere clarified in the entire affidavit about the satisfaction of title and possession over the subject leased property by the lessor and lessee and also not stated

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<sup>5</sup> AIR 2013 SC 565]

as to on what basis they were convinced regarding title of the lessor and lessee over total extent of subject leased property.

32. The entire counter affidavit of Respondent Nos.2 & 3 is revealing their function that by ignoring the statutory compliance on part of it and throwing mud upon the petitioner who appears to be a pathetic and old aged lady. In addition, trying to make investigation regarding representation/report submitted by the petitioner complaining about the fraud played by Respondent No.4 as Investigating Agency or as a prosecutor and also acting as a Judge without referring the same to the competent investigating authority for just and fair investigation. To address the grievance/sufferance of the petitioner that Respondent Nos.2 & 3 shall refer the matter to the competent investigating authority, State of Andhra Pradesh or Union of India.

33. It is settled proposition of law that the public authorities shall adhere to the minimum basic principles of law, while doing their business and while taking decisions in the process of exercising their powers conferred upon them. But, in the instant case, the conduct of Respondent No.3 appears to be contrary to the basic principles i.e principles of natural justice and adherence to Rule of Law. That means, the compliance of provisions of law relating to subject transaction.

34. Admittedly, in the transaction of granting LOI & LOA in favour of Respondent No.4, basing upon a registered lease deed said to have been executed for an extent of Ac.0-58 cents of land in Sy.No.31-2C, Bhyri Village, Srikakulam District, Respondent No.3 conveniently ignored the provisions of Registration Act as well as Transfer of Property Act. The execution of Deed is one mode of alienation of property in favour of the lessee. Such alienation of property is to be verified whether it was alienated as per the provisions of the Act or not and all the necessary parties to the deed are executed or not and the person who alienated the property was vested with the valid title owner of the property or not. It is settled principle of law that, no one can transfer title more than what he has. Admittedly, the lessor is the owner of an extent of Ac.0-29 cents out of Ac.0-58 cents in Sy.No.31-2C, Bhyri Village, Srikakulam District, who executed lease deed in favour of Respondent No.4 firm for an extent of Ac.0-58 cents which includes the land acquired by the petitioner. Therefore, either by negligence or by intention, Respondent Nos.3 & 4 infringed the fundamental rights and constitutional rights of the petitioner guaranteed under Articles 14, 21 & 300-A of the Constitution of India.

35. The counter affidavit filed by Respondent Nos.2 & 3 also indicates that, in the entire episode, they acted as an adjudicatory authority as if they conferred powers to adjudicate the matter pursuant to the representation

police report /complaint made by the petitioner instead of relegating to the competent authority for investigation to cull out the fraud played by Respondent No.4 as well as the lessor i.e. father of Respondent No.4.

36. The contentions of Respondent No.4 also indicates that Respondent Nos.2 & 3 are acting as investigator, prosecutor and Judge in respect of their own dispute, which is nothing but an action of perverse, malice and liable to be investigated by the independent police.

37. It is further observed that, even though the petitioner submitted applications under Right to Information Act for furnishing lease deed submitted by Respondent No.4 for granting LOI & LOA, but, intentionally, for the reasons known to Respondent Nos.2 & 3, they rejected the applications/ representations one after the other, for one reason or the other indicating that Respondent Nos.2 & 3 are trying to suppress the true facts and their misdeeds.

38. The entire acts and deeds of Respondent Nos.2 & 3, being public authorities appears to be lack of fairness, reasonableness and not adhering to the basic principles. Finally, the action of Respondent Nos.2 & 3 in issuing proceedings dated 26.12.2023 and 16.01.2024 directing the petitioner to submit the documents and contending that the petitioner slept over for two

years even after commencement of outlet even making any complaint is nothing but playing clever tactics to cover up their misdeeds and latches after having hand-in-glove with Respondent No.4.

39. Since, Respondent Nos.2 & 3 being one of the party to the dispute, they cannot sit over as a Judge/Adjudicatory Authority upon their own dispute. Once the petitioner alleged that Respondent Nos.3 & 4 played fraud in respect of her property by which she was infringed the fundamental right under Article 21 for livelihood out of her property and constitutional right guaranteed under Article 300-A of the Constitution of India.

40. In view of my foregoing discussion, the entire action of Respondent Nos.2 to 4 is illegal, arbitrary, unfair, malicious, in negligent manner and contrary to the settled principles of law and also Rule 151 of Petroleum Rules, 2002.

41. In the result, writ petition is allowed, with the following directions:

- a. The action of Respondent Nos.2 to 4 is declared as illegal, arbitrary, unfair, malicious and contrary to the settled principles of law and also Rule 151 of Petroleum Rules, 2002;

- b. The proceedings dated 22.12.2023 and 30.03.2021 issued by the respondents are hereby set-aside;
- c. Respondent Nos.2 to 4 shall evict the premises/property belonging to the petitioner of an extent of Ac.0-29 cents in Sy.No.31-2C, Bhyri Village, Srikakulam District and handover the same to her immediately;
- d. The petitioner is entitled to claim damages from Respondent Nos.2 to 4, in lieu of the alleged lease, as per the guidelines basing upon the market value of the property to be fixed by the Sub-Registrar concerned;
- e. Further, this exercise of fixing the market value of the property and payment of damages/for unauthorized occupation of petitioner's land under the guise of invalid lease deed, shall be completed within a period of six months from the date of receipt of copy of this order.
- f. Respondent No.1 is directed to investigate into the fraud played by Respondent Nos.2 to 4 in this matter;

g. The Station House Officer, Rural Police Station, Srikakulam is directed to complete the investigation into the complaint lodged by the petitioner dated 23.11.2023 as early as possible, preferably within a period of six (06) months from the date of receipt of copy of this order.

42. Consequently, miscellaneous applications pending if any, shall also stand dismissed.

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**JUSTICE VENKATESWARLU NIMMAGADDA**

Date:13. 09.2024

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**THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**

**WRIT PETITION No.4393 OF 2024**

Date:13. 09.2024

Note: LR copy to be marked  
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