

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) 10855 OF 2018
[Arising out of Special Leave Petition (Civil)
No.11193 of 2009]

**M/S ANKUR FILLING
STATION**

...APPELLANT(S)

VERSUS

**HINDUSTAN PETROLEUM CORP.LTD.
THROUGH ITS MANAGING DIRECTOR
& ORS.**

...RESPONDENT(S)

ORDER

1. Leave granted.
2. The challenge in the appeal is to an order of the High Court holding that no case for interference under Article 226 of the Constitution is made out in view of the arbitration clause contained in the agreement executed by and between the parties.
3. Having considered the nature of the dispute and the arbitration clause in question we find that the orders of the High Court cannot be faulted.

4. Insofar as the recourse to arbitration is concerned, a larger question confronts the Court, namely, power of the learned Arbitrator to order restoration of the possession i.e. licence.

5. On the arguments advanced on behalf of the respondents that there may not be an absolute bar for the learned Arbitrator to grant restoration in the given facts of a case and the relief to be afforded in the award would depend on the surrounding circumstances we do not consider it necessary to proceed to answer the larger question of law arising which can only be done by a larger bench of five Hon'ble Judges in view of the decisions rendered in Indian Oil Corporation Ltd. vs. Amritsar Gas Service and others¹ and E. Venkatakrishna vs. Indian Oil Corporation and another².

6. So far as the present case is concerned, we leave it open for the appellant

1. (1991) 1 SCC 533

2. (2000) 7 SCC 764

to invoke the arbitration clause even at this stage. In such an event, it will be open for the learned Arbitrator to take a decision in the matter in accordance with law. It will, naturally, be open for both the parties to raise all legal issues and contentions as may be available to them in law.

7. Consequently and in the light of the above, the appeal as well as all pending applications shall stand disposed of in the above terms.

.....,CJI.
(RANJAN GOGOI)

.....,J.
(UDAY UMESH LALIT)

.....,J.
(K.M. JOSEPH)

NEW DELHI
OCTOBER 31, 2018

ITEM NO.102

COURT NO.1

SECTION XI

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). 11193/2009
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 02-04-2009
IN WP NO. 3860/2008 PASSED BY THE HIGH COURT OF JUDICATURE AT
ALLAHABAD, LUCKNOW BENCH)

M/S ANKUR FILLING STATION

PETITIONER(S)

VERSUS

HINDUSTAN PETROLEUM CORP.LTD. THROUGH
ITS MANAGING DIRECTOR & ORS.

RESPONDENT(S)

Date : 31-10-2018 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s)

Ms. Kamini Jaiswal, Adv.
Mr. Rohit Kumar Singh, AOR
Mr. Raghvendra Pratap Singh, Adv.
Ms. Rani Mishra, Adv.
Mr. Jatinderpal Singh, Adv.

For Respondent(s)

Mr. Jaideep Gupta, Sr. Adv.
Mr. Sanjay Kapur, AOR
Mr. Bharath Gangadharan, Adv.
Ms. Sheena Taqui, Adv.
Ms. Shubhra Kapur, Adv.
Mr. Abhishek S., Adv.
Mr. Saurav Gupta, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

Leave granted.

**The appeal as well as all pending applications shall
stand disposed of in terms of the signed order.**

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

ASSISTANT REGISTRAR

[SIGNED ORDER IS PLACED ON THE FILE]