

(1986) 01 MAD CK 0039
In the Madras High Court

Bharat Petroleum Corporation Ltd.

APPELLANT

Vs

Nguyon Ngoc Em alias Mariam Beevi
Bharat Petroleum Corporation Ltd. Vs Nguyon Ngoc and Mariam Beevi and Others

RESPONDENT

Date of Decision : 28-01-1986

Acts Referred:

Citation : (1986) 99 LW 64 : (1986) 1 MLJ 253

Hon'ble Judges : V. Ratnam, J

Bench : Division Bench

Judgement

V. Ratnam, J.—Bharat Petroleum Corporation Limited (hereinafter referred to as the Corporation) is the appellant in these appeals. Second Appeal No. 13 of 1980 has been preferred by it against the decree for ejectment passed against the Corporation in O.S.No25 of 1978, District Munsif's Court, Karaikal, instituted by the respondent therein and affirmed in A.S. No. 46 of 1978, Subordinate Judge's Court, Karaikal. Second Appeal No. 1591 of 1983 is directed against the judgment and decree of the learned Subordinate Judge, Karaikal, in A.S. No. 15 of 1980 reversing the judgment and decree in O.S. No. 96 of 1979, Additional District Munsif's Court, Karaikal, instituted by the Corporation for specific performance of an agreement to renew the term of the lease in its favour for a further period of 20 years from 1.2.1978. It may be mentioned that the decree in ejectment had been passed against the Corporation on the only ground in favour of the Corporation had expired and no suit for specific performance of the agreement providing for a renewal of the term, had been filed by it. It would therefore be appropriate to deal with Second Appeal No. 1591 of 1983 first, as the decision in Second Appeal No. 13 of 1980, would depend upon the conclusions arrived at in Second Appeal No. 1591 of 1983. The facts giving rise to Second Appeal No. 1591 of 1983 are as follows:

Admittedly, the first respondent in S.A. No. 1591 of 1983 executed a lease deed Ex.A-1 in respect of a Manaikat in Bharathiar Road, Karaikal, in favour of the

then Burmah-Shell Oil Storage and Distributing Company of India Limited, now succeeded to by the Corporation, for a period of 20 years from 1.2.1958 on a monthly rent of Rs. 45/- payable on or before the 10th of the next month. Article 3(b) of the lease deed as translated provides as follows:

That on a written request from the lessee, one month before the expiry of the period fixed hereby, and if at time of such a request there had been no violation or non-observance of any of the conditions herein before mentioned by the Lessee, the Lessor will consent to the lease of the rented premises, for the same rent for another period of Twenty Years from the expiry of the said period and containing similar stipulations and provisions as contained herein, except the stipulation of renewal.

Under Ex.A-2 dated 14.11.1977, the Corporation addressed to the first respondent in S.A. No. 1591 of 1983, a communication notifying its intention to obtain a renewal of the lease for a further period of twenty years from 1.2.1978 on the existing terms and conditions and calling upon her to grant a lease accordingly. Since the first respondent in S.A. No. 1591 of 1983 did not grant a renewal of the lease as prayed for, the Corporation instituted O.S. No. 96 of 1979, District Munsif's Court, Karaikal, stating that it was ready and willing to perform its part of the contract and that it had the right to obtain the renewal of the lease, but that it had been withheld by. the first respondent in S.A. No. 1591 of 1983 and therefore, the agreement for the renewal of lease for a further term of 20 years from 1.2.1978 should be specifically enforced.

2. In the written statement filed by the first respondent in S.A. No. 1591 of 1983, she questioned the claim of the Corporation that it is the successor in interest of Burmah-Shell Oil Storage and Distributing Company of India and stated that not being a party to the lease deed, it had no right to seek specific performance regarding the renewal of the term. The recital providing for renewal was not intended to be acted upon and there was no concluded contract regarding that, according to the first respondent. She claimed that the lease had been terminated and had come to an end and therefore, there was no question of the exercise of any option. A plea that the suit is barred by res judicata by virtue of the decision in O.S. No. 25 of 1978, District Munsif's Court, Karaikal, was also raised.

3. It is necessary at this stage to refer to the institution of O.S. No. 25 of 1978, District Munsif's Court, Karaikal, by the first respondent in S.A. No. 1591 of 1983 and the respondent in S.A. No. 13 of 1980. Stating that she had leased out the manaiakat in favour of the then Burmah-Shell Oil Storage and Distributing Company India Limited, for a period of 20 years for the purpose of installing a petrol pump and for doing business in petrol and allied products, that the clause in the lease deed providing for the renewal of the same for a further period of 20 years was only a formal one and never intended to be acted upon, that when the period under lease was about to terminate, she requested for the payment of enhanced rent and the entering into of a fresh lease deed which was not done;

but the renewal of the lease for a further period of 20 years was insisted upon and that a notice terminating the tenancy with effect from 31.1.1978 had been issued, the respondent in S.A. No. 13 of 1980 prayed for a decree for recovery of possession. That suit was resisted by the Corporation on the ground that the clause in lease deed relating to renewal was not an empty formality, but was one intended to be acted upon and that in accordance with that, it was entitled to a further extension of 20 years and that the suit was instituted only with a view to get enhanced rent. It was also the further plea of the Corporation that as the notice issued was not proper, there was no cause of action for the suit.

4. By judgment dated 23.10.1978 in O.S. No. 25 of 1978, the learned District Munsif, Karaikal, found that the renewal clause in the lease deed was valid and entitled to be acted upon, that the notice to quit was proper and valid, that as the Corporation had not filed the suit for the specific performance on the renewal clause, it cannot succeed in resisting the claim of the respondent in S.A. No. 13 of 1980 for recovery of possession. On these conclusions, a decree for recovery of possession was passed and the Corporation was directed to quit and surrender possession of the manaikat to the respondent in S.A. No. 13 of 1980 after removal of the installations therein. Aggrieved by this, the Corporation preferred an appeal in A.S. No. 46 of 1978, Sub-Court, Karaikal and by judgment dated 27.11.1979, the learned Subordinate Judge, Karaikal, concurred with the conclusion of the trial Court that in the absence of taking of steps to get a renewal of the lease and the filing of a suit for specific performance, the Corporation cannot resist the claim of the respondent in S.A. No. 13 of 1980 for recovery of possession. In that view, the appeal was dismissed affirming the decree for possession. It is the correctness of this that is challenged in S.A. No. 13 of 1980.

5. In so far as O.S. No. 96 of 1979, District Munsif's Court, Karaikal, is concerned, by judgment dated 10.4.1980, the learned Additional District Munsif, Karaikal, found that the Corporation is entitled to claim specific performance of the agreement for the renewal of the lease for a further period of 20 years, that there was no substance in the plea of res judicata and that the Corporation is entitled to a decree for specific performance. On these conclusions, the first respondent in S.A. No. 1591 of 1983 was directed to execute a lease deed for a further period of 20 years from 1.2.1978 in favour of the Corporation. Aggrieved by this, the first respondent in S.A. No. 1591 of 1983 preferred A.S. No. 15 of 1980 to the Subordinate Judge's Court, Karaikal. Holding that on the language of Article 3(b) of the lease agreement Ex.A-1 referred to earlier, it was open to the first respondent in S.A. No. 1591 of 1983 to reject the request made by the Corporation for renewal, it was found that the right of renewal was not vested in the Corporation until and unless it was accepted by the first respondent in S.A. No. 1591 of 1983 and therefore, there cannot be a suit for specific performance of the contract, which had not been concluded. In that view, the learned Subordinate Judge reversed the decree and Judgment of the learned Additional District Munsif and dismissed O.S. No. 96 of 1979. It is the correctness of this

that is challenged in S.A. No. 1591 of 1983 by the Corporation.

6. During the pendency of S.A. No. 1591 of 1983, the first respondent herein sold the property in favour of respondents 2 and 3 in S.A. No. 1591 of 1983 and on an application taken out in C.M.P.No15895 of 1985, by orders passed thereon on 11.12.1985, respondents 2 and 3 were impleaded as parties to S.A. No. 1591 of 1983.

7. The learned Counsel for the appellant in S.A. No. 1591 of 1983 contended that the interpretation put by the lower Appellate Court upon Article 3(b) of Ex.A-1 relating to renewal is erroneous, as all that is contemplated thereunder is the communication of a desire by the Corporation to have the benefit of renewal for a further period, which the lessor had no option whatever to refuse, if it had been communicated within the time contemplated under Article 3(b) of Ex.A-1 and the other conditions specified therein had been satisfied. Strong reliance was also placed by the learned Counsel upon the decision in *Khivraj Chordia and Others Vs. Esso Standard Eastern Inc.*, . On the other hand, the learned Counsel for the respondents in S.A. No. 1591 of 1983 submitted that the Corporation did not have any enforceable right for seeking the relief of specific performance and that even assuming that it had such a right, the Court will not decree specific performance of an unfair and unconscionable transaction. Elaborating this, the learned Counsel pointed out that the rights of parties had to be decided as on the date when the lease deed under Ex.A-1 was executed viz., 31.1.1958 and that at that point of time, for breach of Article 3(b) of Ex.A-1, the remedy of the Corporation was to recover damages only, as the provisions of the Specific Relief Act (hereinafter referred to as the Act) had not been made applicable to the territory of Pondicherry then and therefore, by a retrospective application of the provisions of the Act, the Corporation cannot seek to enforce a right to obtain specific performance of the agreement for the renewal of the lease deed for a further period of 20 years, which was unavailable on the date of Ex.A-1. Attention in this connection was also drawn to certain passages in *Maxwell Interpretation of Statutes*, 12th Edition, page 215 and *Bindra's Interpretation of Statutes* 6th edition page 220. Reliance was also placed upon Section 20(2)(b) and (c) of the Act and the decisions in *Lakshminarayana Reddiar Vs. Singaravelu Naicker and Another*, and *Rangasami Gounder Vs. Periamuthu Gounder and Others*, to contend that to grant a decree for specific performance would be to enforce a wholly unfair and unconscionable transaction and therefore, the relief should be refused.

8. The terms upon which the lessee, i.e. the Corporation can seek a renewal of the lease for a further period of 20 years have already been set out. What is contemplated is (i) a written request from the lessee (ii) one month before the expiry of the period of the lease and (iii) there should not have been any violation or non-observance of any of the conditions of the lease at that time. There has been a request from the lessee in writing under Ex.A-2 on 14.11.1977 and there had been no violation or non-observance of any of the conditions of

the lease under Ex.A -1. Ordinarily therefore, the Corporation, as a person, who had fulfilled all the conditions for securing a renewal of the lease, would be entitled to such renewal. However, the question is whether the use of the expression "request" in Article 3(b) of Ex.A-1 would make any difference. The word "request" occurring in Article 3(b) of Ex.A-1 cannot certainly be understood as it is ordinarily and commonly understood. In the context in which that expression has been used, it means a written communication from the lessee and no more. The lower appellate Court had taken the view that a request from the lessee was capable of being granted or turned down and that there was nothing to compel the first respondent to grant the request so made. This view of the lower appellate Court is not correct, for, it had misconstrued the expression "request" and concluded that it was capable of rejection. In doing so, the lower appellate Court has not paid sufficient attention to the use of the expression that "the lessor will consent to the lease of the rented premises." The lessor has not reserved in herself any option either to grant or to reject, but had bound herself to grant a renewal, if the other conditions mentioned in Article 3(b) of Ex.A-1 were fulfilled. The lower appellate Court had not attached any weight to the use of the expression "the lessor will consent". A claim for a further renewal might have originated in the shape of a request, but even then, the lessor, on the language employed, was bound to grant a renewal inasmuch as there was no reservation of any option in the lessor, either to grant or to decline to grant, as she had inextricably bound herself to consent to the renewal for a further period of 20 years with no further right of renewal thereafter. It is not in dispute that a written request had been made by the Corporation one month before the expiry of the period fixed under Ex.A-1 and that at that time there had been absolutely no violation or breach of any of the conditions of the lease under Ex.A-1. Under those circumstances, having regard to the terms in which the right to secure a renewal is couched, the Corporation was undoubtedly entitled to secure a renewal for a further period i.e. for the next 20 years.

9. It is significant that in *Khivraj Chordia and Others Vs. Esso Standard Eastern Inc.*, a clause providing for renewal of the lease almost in identical terms, as we have in this case, had been upheld and given effect to. Clause 3(d) of the agreement, which arose for interpretation in that case, ran as under:

That the landlord will on the written request of the tenant make 2 calendar months before the expiry of the term hereby created and if there shall not at the time of such request be any existing breach or non-observance of any of the covenants on the part of the tenant hereinbefore contained grant to it a lease of the demised premises for the further term of ten years from the expiration of the said term containing like covenants and provisos as are herein contained and at rent to be mutually agreed between the parties hereto due regard being paid to rents then prevailing in the same locality.

The challenge to this clause was on the ground that the renewal was conditioned by fixation of rent which had to be mutually agreed to between the parties and

as such a condition was an uncertain one or one whose terms cannot be made certain it was therefore void. The validity of the clause was upheld on the ground that it cannot be said that the rents prevailing for similar properties cannot be found or deciphered or that it would be impossible for the parties to agree upon the rent payable by one to the other after an enquiry into reasonable rent and in that view, the clause providing for renewal was held to be unambiguous and valid. As pointed out earlier, there is absolutely no ambiguity whatever in the renewal clause under Article 3(b) of Ex.A-1 extracted earlier. There is no clause that the rent has to be mutually agreed upon, but the renewal is provided on the same terms and conditions as in Ex.A-1. Therefore, if such a clause is valid even in the face of a provision for a future fixation of rent to be mutually agreed upon, it should be all the more so in the case like this, where the lessor had, without any reservation, bound herself to grant a renewal, subject to the fulfilment of certain conditions, which, as pointed out earlier, have all been fulfilled in this case. It therefore follows that the Corporation was entitled to the benefit of Article 3(b) of Ex.A-1 and to a renewal for a further period of 20 years on the same terms and conditions as before. The refusal of the benefit of this renewal to the Corporation by the lower appellate court on the ground that it was only in the nature of a request, which can be either granted or declined to be granted, is therefore, not in order.

10. It now remains to consider whether the Corporation did not have any right at all to claim specific performance as contended by the learned Counsel for the respondents in S.A. No. 1591 of 1983. All that the Corporation was entitled to on the date of Ex.A-1 with reference to a breach of Article 3(b) of Ex.A-1 was a right to claim damages and no more. That right cannot be given a go-by or enlarged into one of a claim for specific performance of the agreement to grant a renewal. So ran the argument of the learned Counsel. Whatever might have been the position on the date when Ex.A-1 was entered into, the point of time at which the rights of parties has to be considered is, when the Corporation called upon the lessee to grant a renewal for a further period of 20 years. The provisions of the Act were made applicable to the whole of India, except the State of jammu and Kashmir with effect from 1.3.1964. The Corporation had called upon the lessor to grant the renewal under Ex.A-2 on 14.11.1977 long after the coming into force of the provisions of the Act, even with reference to the Pondicherry territory. The cause of action for seeking a renewal in accordance with Article 3(b) of Ex.A-1 had arisen in this case only after the sending of the communication under Ex.A-2 dated 14.11.1977 and the inaction of the first respondent in S.A. No. 1591 of 1983 with reference to that and not before. Therefore, at the time when the Corporation had a cause of action for seeking relief with reference to the renewal clause under Article 3(b) in Ex.A-1, the provisions of the Act had been made applicable. This is therefore not a case of any retrospective application of the provisions of the Act, as to enlarge the rights available to the Corporation, as contended by the learned Counsel for the respondents in S.A. No. 1591 of 1983. Till the sending of Ex.A-2, dated 14.11.1977, the Corporation" had no cause of

action, which would have compelled it to file a suit for the specific performance of the contract for renewal for a further period of 20 years. Further, it is also difficult to accept the contention that the rights of parties have to be determined only with reference to the date of Ex.A-1, viz., 31.1.1958 and that therefore, the Corporation had only right to recover damages in the event of a breach of Article 3(b) in Ex.A-1. On the expiry of the term reserved under Ex,A-1, ordinarily, the first respondent in S.A. No. 1591 of 1983 would have been entitled to recover possession of the leased property. Even so, she had almost subjected it to a lease for a further period of 20 years. In other words, she had, by her own volition, provided for the postponement of the right to recover possession of the property leased by making provision for a renewal, subject of course to certain other conditions, which, as noticed earlier, have all been fulfilled. Therefore, it is not as if that the first respondent in S.A. No. 1591 of 1983 was as of right entitled to recover possession on the expiry of the term under the lease deed Ex.A-1. Likewise, in so far as the Corporation is concerned, even assuming that it had only a right to claim damages from the first respondent in S.A. No. 1591 of 1983 for breach of Article 3(b) under Ex.A-1, the appropriate time, when it could have made such a complaint and recovered damages, was on sending Ex.A-2, dated 14.11.1977 requesting for a renewal, which, however, was not complied with by the first respondent in S.A. No. 1591 of 1983. On the refusal to comply with the request so made by the Corporation on that date, according to the provisions of the Act, as extended to the territory of Pondi-cherry, the Corporation had acquired the right to specifically enforce Article 3(b), amongst other remedies. Thus, with reference to Article 3(b) of Ex.A-1, the point of time at which the Corporation could have enforced either its right to recover damages or to seek the remedy of specific performance, would have arisen only one month prior to the expiry of the lease and not before. To put it differently, the right to seek specific performance of the agreement under Article 3(b) of Ex.A-1 could not at all have been enforced by the Corporation at any point of time prior to the period specified under Article 3(b) of Ex.A-1. It will not be correct, therefore, to state that the remedy of the Corporation under Ex.A-1 was only to sue for damages for breach of Article 3(b) of Ex.A-1 and no more. Even assuming that with reference to the point of time relevant for Article 3(b) of Ex.A-1, the Corporation had a right to recover damages, by reason of the provisions of the Act, it also had a right to seek specific performance of Article 3(b) of Ex.A-1. It is not as if the remedy of the Corporation was confined only to an action for damages as the learned Counsel for the respondents in S.A. No. 1591 of 1983 would contend. Section 21(1) of the Act is also relevant in this connection. That recognises a claim for compensation for breach of contract either in addition to or in substitution of the performance of a contract in a suit for specific performance. It is therefore not possible to accept the contention that the rights will have to be considered and decided as on the date of Ex.A-1 and that therefore, the remedy of the Corporation was only to sue for recovery of damages and not to seek specific performance in terms of Article 3(b) of Ex.A-1. Viewed in the light of the aforesaid considerations, there is no substance in the

contention of the learned Counsel for the respondents that by a retrospective application as it were of the provisions of the Act, a right to seek specific performance is also made available to the Corporation, when the only remedy available to it was to recover damages, for breach of Article 3(b) of Ex.A-1.

11. It is now necessary to consider whether in the light of Section 20(2)(b) and (c) of the Act read with Explanations 1 and 2, it would be a sound exercise of discretion to decline to grant the relief of specific performance to the Corporation. u/s 20(2)(b) of the Act, if the performance of the contract would involve some hardship on the defendant which was not foreseen by him, whereas its non-performance would involve no such hardship on the plaintiff, the Court, in its discretion, may not decree specific performance. Under Explanation 1, inadequacy of consideration, the fact that the contract is onerous to the defendant or improvident in its nature, shall not be deemed to constitute hardship within the meaning of Section 20(2)(b) of the Act. In this case, it cannot be stated that the defendant would be involved in some hardship not foreseen by her. She was fully alive to the terms and conditions under which Ex.A-1 was granted and was a willing and consenting party to the clause under Article 3(b) in Ex.A-1 for a further renewal on the same terms and conditions. This is not a case of any unforeseen hardship to which the first respondent in S.A. No. 1591 of 1983 would be subjected by performing the contract for renewal. On the other hand, the non-performance would cause very serious hardship to the Corporation in that it will be obliged to uproot itself from the premises by dismantling the petrol pump and other structures put up thereon and move to another place, which may not be readily available. This is therefore a case where non-performance by the first respondent in S.A. No. 1591 of 1983 would involve very serious hardship to the Corporation. An attempt was made by the learned Counsel for the respondents in S.A. No. 1591 of 1983 to contend that the rent reserved for the renewal period is ridiculously low and would not be sufficient even to meet the outgoings and therefore it will cause serious hardship to the respondent. The provision for renewal on the same terms and conditions found in Ex.A-1 can at best be described to be one for inadequate consideration or improvident by its nature and that would not constitute hardship within the meaning of Explanation 1. That would exclude the applicability of Section 20(1) (b) of the Act. Besides, under Explanation 2, the question of hardship has to be determined with reference to the circumstances existing at the time of the contract. There is absolutely nothing to indicate that the performance of the contract for renewal would involve great hardship, considering the circumstances which existed at the time of Ex.A-1. Therefore, u/s 20(2)(b) read with Explanation 2 of the Act also, the Corporation cannot be told that in the exercise of discretion by the Court, the relief of specific performance would not be granted. It was also said that it would be inequitable and unconscionable to enforce specific performance. In my view, there is nothing which is either inequitable or unconscionable with reference to the renewal provided for under Article 3(b) of Ex.A-1. The first respondent in S.A. No. 1591 of 1983 had without

any reservation agreed to grant a renewal of lease for a further period of 20 years on the same terms and conditions. It has to be remembered that what was let out under Ex.A-1 in 1958 was only a vacant manaikat or site, which probably was then of no use to the first respondent in S.A. No. 1591 of 1983. She had let it out to Burmah-Shell Oil Storage and Distributing Company of India Limited on a monthly rental of Rs. 45 for a period of 20 years which, even in 1958, was on the high side for vacant sites. Therefore, there is nothing improbable in the first respondent in S.A. No. 1591 of 1983 having agreed for a renewal of the lease on the same terms and conditions as before without any enhancement in rent. It therefore follows that the rent fixed in 1958 and also for the subsequent renewal period had taken note of the existing rents and the advantage of the high rent secured under Ex.A-1 and had provided for the same rent taking into account the aspect of a possible increase in the future as well. There is therefore nothing unfair or unconscionable about the provision for renewal. It has to be pointed out that in this case there has been no evidence to show that there has been a steep increase in the rents payable with reference to sites similar to the one leased out in favour of the Corporation and in its absence, it cannot be assumed that the rent reserved under Ex.A-1 is so low that to grant a renewal on the same terms and conditions for a further period of 20 years, would amount to enforcing an unfair and unconscionable transaction. In the absence of any material to show that the renewal would be unfair or unconscionable, it is not possible to countenance this contention of the learned Counsel for the respondents in S.A. No. 1591 of 1983. In *Lakshminarayana Reddiar Vs. Singaravelu Naicker and Another*, it was clearly found that the appellant therein had taken advantage of the situation in which the judgment-debtors were placed and had secured properties, not negotiating for them on equal terms. It was also found that the judgment-debtors were placed in such a situation that unless they found money for depositing into Court to set aside the sale, they had no prospect of reauctioning the properties. Such is not the situation in this case. There is nothing to indicate that any unfair advantage was secured by the Corporation or the Burmah Shell Oil Storage and Distributing Company. The other decision in *Rangasami Gounder Vs. Periamuthu Gounder and Others*, also does not advance the case of the respondents in S.A. No. 1591 of 1983. Considering the question whether any unfair advantage had been secured which would be a ground for not granting the discretionary relief of specific performance, the Division Bench pointed out that on an overall appreciation of the situation, the Courts, which are to adjudicate upon the party complaining of such an unfair advantage, should have been tricked and that there was a designed approach on the part of the plaintiff to victimise the alleged affected party. It was also laid down that to decline to grant a decree for specific performance on the ground of grossly inadequate consideration or price, it would be necessary to prove that the consideration is grossly inadequate and that by a design, the vendor had been victimised. On the facts in this case, there is no question of the first respondent in S.A. No. 1591 of 1983 having been victimised, for, there is neither pleading nor proof in support thereof. Under those circumstances, on the facts of this

case, no unfair advantage had been taken by the Burmah Shell Oil Storage and Distributing Company of India Limited against the first respondent in S.A. No. 1591 of 1983 and the respondents cannot, therefore, be heard to complain that either on the ground of unfair advantage or grossly inadequate rent, the relief of specific performance ought not to be granted. It is also necessary to remember that the lower appellate Court had not reversed the decision of the trial Court on the ground of improper exercise of discretion in the light of Section 20 of the Act, but had dismissed the suit on an interpretation of Article 3(b) of Ex.A-1 which, it has earlier been held, is not correct. No other point was urged.

12. Thus on a careful consideration of the facts and evidence, the lower appellate Court undoubtedly was in error in having reversed the decree of the trial Court and in dismissing O.S. No. 96 of 1979, Additional District Munsif's Court, Karaikal. Consequently, the judgment and decree in A.S. No. 15 of 1980, Sub-Court, Karaikal, are set aside and those of the Additional District Munsif's Court, Karaikal, in O.S. No. 96 of 1979 are restored. S.A. No. 1591 of 1983 is allowed. There will be no order as to costs.

13. It follows that if the appellant in S.A. No. 1591 of 1983 is entitled to a decree for specific performance, then, the decree in ejectment passed against it cannot be sustained, as the only ground for passing such decree is that the Corporation had not instituted a suit praying for the specific performance of Article 3(b) of Ex.A-1 for renewal of the lease for a further period of 20 years. Since that relief has been granted in favour of the Corporation in S.A. No. 1591 of 1983, the decree in ejectment passed by the learned District Munsif, Karaikal, in O.S. No. 25 of 1978 and affirmed by the learned Subordinate Judge, Karaikal, in A.S. No. 46 of 1978 cannot be sustained. Consequently, the suit for ejectment in O.S. No. 25 of 1978, D.M.C. Karaikal will stand dismissed and S.A. No. 13 of 1980 is allowed. However, there will be no order as to costs.