

**(1997) 03 MAD CK 0006**  
**In the Madras High Court**  
**Case No : R.C. No. 8 of 1983**

G. Sundararaj Achari

APPELLANT

Vs

Hindustan Petroleum Corporation Ltd.

RESPONDENT

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**Date of Decision :** 03-03-1997

**Acts Referred:**

Constitution of India, 1950 — Article 14, 19

**Citation :** (1997) 03 MAD CK 0006

**Hon'ble Judges :** V. Kanagaraj, J;Raju, J

**Bench :** Division Bench

**Advocate :** T.M. Hariharan, for the Appellant;

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## **Judgement**

Raju, J.—The above case has been referred by the District Munsif, Periakulam, on an application filed by the petitioner/plaintiff in O.S. No.

865 of 1980, in LA. 338 of 1981, referring the question relating to the Constitutional Validity of ESSO (Acquisition of Undertakings in India) Act

(4 of 1974), to this Court. The petitioner who made the application for reference, is the plaintiff in the suit and the respondent is the defendant. He

submitted that the lease originally entered into between one Raju Chettiar and Messrs. Standard Vaccum Oil Company has expired and clause

3(d) of the Lease deed merely gave a period of extension and not for renewal of lease and therefore, the statutory extension pleaded by the

defendant is not applicable to the circumstances of the case. In raising such a plea, it was contended for the plaintiff that the Act is expropriatory

and violative of the fundamental rights of the petitioner and therefore, is unconstitutional and cannot be enforced against the rights of the

plaintiff/petitioner to hold his property under Article 19 of the Constitution of India. In substance, the challenge was to Sections 5 and 7(3) of

Central Act 4 of 1974, which is said to be violative of the fundamental rights of the petitioner/plaintiff to hold and enjoy his property.

2. Heard the learned counsel for the petitioner. The Constitutional validity of the very provision and ;also similar legislation relating to Burmah Shell

(Acquisition of Undertakings in India) Act (2 of 1976) came up for consideration before several High Courts, We have been taken through by the

learned counsel for the petitioner the relevant decisions, of course, of different High Courts and we are of the view that the decisions in Mustafa

Hussain Vs. Union of India (UOI) and Another, and P. Sankaranarayanan Nambiar and Others Vs. Union of India (UOI) and Others, have

exhaustively as also elaborately analysed the identical grounds of challenge to the very provisions and allied legislations in respect of other similar

undertakings and sustained the constitutional validity of the said provisions. In our view, the ratio of the decisions and the principles laid down

therein are squarely applicable to the present cases on hand also and we are in respectful agreement with the views expressed in the above

referred two Division Bench judgments, reselling the change to the Constitutional validity of the Act in question. Consequently and applying the

ratio laid down therein, we are of the view that the challenge made to the Constitutional validity of Section 5 and 7(3) of the Act is not well merited

and does not serve countenance, in our hands. We hold on the question referred to us that the provisions of ESSO (Acquisition of Undertakings in

India) Act (4 of 1974), particularly Section 5 and 7(3) of the Act are Constitutionally valid and do not suffer any infirmity as being violative of the

provisions of the Constitution of India, particularly Articles 14 and 19 of the Constitution and answer the question accordingly. However, we make

no order as to costs. In view of the decision rendered by us on the Constitutional validity of Central Act 4 of 1974, it becomes necessary for the

Trial Court to dispose of the suit on merits of the claims between parties. Since the suit is of the year 1980, it is absolutely necessary to give top

priority to the trial of the said suit The learned District Munsif, Periakulam, is directed to dispose of O.S. 885 of 1980 expeditiously, within 3

months from the date of receipt of a copy of this judgment or at any rate before the end of July, 1997, on production of a copy of such judgment

by either of the parties.