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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No. 7411 OF 2014.

M/s Rampratap Girdharilal Agrawal, Amgaon through its partner
Rajendrakumar s/o Girdharilal Agrawal.

-Vrs.-

Bharat Petroleum Corporation Ltd., Mumbai and another.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A.N. Vastani, counsel for petitioner.

Mr. A. Sambre, counsel for respondent nos.1 & 2.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 21st OCTOBER, 2015

Heard advocate Vastani for petitioner and advocate
Sambre for respondent nos. 1 & 2.

Perused communication dated 23.12.2014 by which
respondents asked petitioner to upload certain documents.
Accordingly, petitioner has claimed that it has already
displayed on site all the documents. However, as license is still
not approved and partnership deed as modified after 1986 on
the death of one of the partners is still not cleared by
respondent no. 2, the same have not been uploaded. It is
pointed out that these documents are in custody of
respondents.

Shir Sambre appearing for respondents states that
in 1986 one of the partners expired and one legal heir of that

partner has been inducted in partnership. The respondents as per their policy need no objection certificate of other legal heirs of deceased partner. As that no objection certificate has not been supplied, the partnership deed cannot be cleared. Consequently, the licence also cannot be approved.

Petitioner is still carrying on business. Licence issued to it is somewhere in 1963 and the partnership which is approved has been registered in 1973. One of the partners in the firm expired in 1986. Petitioners claim that that partner has left a registered Will dated 11.10.1982 in favour of person who has been taken in firm reconstituted on account of death of that partner. The reconstituted firm is also registered. As the other legal heirs have not raised any dispute, the demand for no objection certificate from other heirs of deceased partner is unwarranted.

We do not wish to go into this controversy at this stage. Petitioner in paragraph 7 states that there is a registered will dated 11.10.1982 and that will has not been denied by respondents. Respondents are also not pointing at least in reply before this court that they have received any objection from any of the other legal heirs of deceased partner.

In this situation, when registered will deed is acted upon by heirs of deceased partner and firm as reconstituted is duly registered, that demand of no objection certificate will be too technical requirement. If there is registered will deed and no objections are received by respondents on behalf of the other legal heirs, the demand will not be justified.

However, in this situation, as petitioner is still

operating, we direct the petitioner to point out all these facts to respondent no. 2 by producing necessary material in support thereof. We direct petitioner to appear before respondent no. 2 on 30.11.2015. Respondent no. 2 shall after considering those documents, issue necessary communication to petitioner afresh.

At this stage, it is pointed out that in 2006 one more partner expired and his heirs have also been substituted. This aspect can also be looked into by respondent no.2.

Fresh orders shall be passed by respondent no.2 in accordance with law within next six weeks of 30.11.2015.

Keeping open all other rival contentions, we dispose of this writ petition.

JUDGE

JUDGE

Hirekhan