

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.579 of 2015

and

M.P.No.1 of 2015

- 1.M/s.Bharat Petroleum Corporation Ltd.,
Government Enterprises,
rep by its authorised signatory,
Bharat Bhavan,
4 & 6, Currimbhoy Road,
Ballard Estate, Post Bag No.688,
Mumbai-400 001.
- 2.Territory Manager,
Chennai LPG Bottling Plant JA-J6,
Sipcot Industrial Complex,
New Gummidipoondi, Thiruvallur District,
Tamil Nadu-601 201. ... Appellants/ Respondents

Vs.

T.Thilagavathy ... Respondent/ Petitioner

This writ appeal is preferred under Clause 15 of the Letters Patent against the order dated 04.12.2014 in W.P.No.23448 of 2013.

Petition under Article 226 of the constitution of India to issue a writ of certiorarified mandamus calling for the records pertaining to order of the second respondent dated 7.8.2013 cancelling petitioners distributorship at the threshold for Rajiv Gandhi Gramin LPG Vitrak (RGGLV) at perampattu/Pallavalli/Chinnasamudram Vellore District under open category quash the same and consequently direct the respondents to issue a confirmation letter regarding petitioners appointment as distributorship for Rajiv Gandhi Gramin LPG Vitrak (RGGLV) at Perampattu/Pallavalli/Chinnasamudram District Vellore under open category.

For Appellants : Mr.O.S.Karthikeyan
for Mr.O.R.Santhanakrishnan

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

This instant intra-court appeal arises from the order dated 04.12.2014 passed by the learned Single Judge in W.P.No.23448 of 2013.

2. Pursuant to the public invitation for awarding the Rajiv Gandhi Gramin LPG Vitrak at Perampattu / Pallavalli / Chinnasamudram villages in Vellore District under the open category, the writ petitioner submitted an application on 29.1.2012. By communication dated 4.5.2013, the writ petitioner was informed about her qualification for draw for selection under the scheme, asking her to be present along with her photo identity card also. On 7.8.2013, the writ petitioner was informed that the information given in the application is found to be in variance that the land belonging to her mother-in-law was bequeathed to her husband under a Will and it was not probated. The said Will document was pledged in State Bank of India, Tirupattur for availing loan and as such, she was held as disqualified. Challenging the said communication dated 07.08.2013, the writ petitioner has come up with the writ petition.

3. The learned Single Judge examined the case and held as under :

"6.The main grounds on which the respondents have rejected the candidature of the petitioner are (i) that the document under which the petitioner claimed title to the property in question, was inherited by her husband under a Will which was not probated and (ii) that the original Will had been mortgaged with the State Bank of India, Tirupattur, but the same was not disclosed in the application form.

7.But a perusal of the documents produced by the petitioner shows that both the above grounds are unsustainable. The property in respect of which the petitioner claimed title, is in a mofussil area. Therefore, the Will executed by the mother in law of the petitioner in favour of the petitioner's husband, did not require probate or letters of administration. This point has not been taken note of by the respondents. Hence, the first ground goes.

8.So far as the second ground is concerned, the petitioner has mortgaged a part of the property, on which the proposal to put up the dealership is not made. In other words, the land in question, where the dealership is to come, is not at all under mortgage. This has been clarified by the State Bank itself by a letter. The letter is found in the typed-set of documents and the same has also been given to the respondents. Therefore, both the grounds on which the respondents rejected the candidature of the petitioner

appear to be illegal and not based upon the actual facts. Therefore, the writ petition is allowed and the impugned order is set aside. Consequently, M.P.No.1 of 2013 is closed. No costs."

4. We have heard the learned counsel appearing for the appellant and gone through the pleadings and documents appended thereto and the order sought to be impugned.

5. There is no dispute that the candidature of the writ petitioner was rejected on two grounds that the property was inherited by her husband under a Will, which was not probated and the original Will had been mortgaged with the State Bank of India, Tirupattur, which was not disclosed in the application form. Thus, the writ petitioner was held as disqualified on the ground of suppression of material facts. It is well settled that the Will executed in the mofussil area does not require probate or letters of administration and also the Will was executed by the mother-in-law of the writ petitioner in favour of the petitioner's husband. The second ground also falls to ground as the State Bank of India in its communication had clearly stated that the land in question, which was stated to be put up for dealership, was not mortgaged with the Bank at any point of time. Thus, the view taken by the learned Single Judge is perfectly legal and valid, requiring no interference.

6. In view of the foregoing, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vvk

To

1. The Authorised Signatory,
M/s.Bharat Petroleum Corporation Ltd.,
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2. The Territory Manager,
Chennai LPG Bottling Plant JA-J6,
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Tamil Nadu-601 201.

1 cc to Mr.O.R. Santhanakishnan, Advocate, sr. 20782

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