

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2816 OF 2014

Ramchandra Mahalappa Kambale

...Petitioner

Versus

Hindustan Petroleum Ltd. & Anr.

...Respondents

.....

Mr. Manoj A. Patil for the Petitioner.

Mr. Minoo Siodia with Ms Ashiya Shaikh i/b. M/s. Rustomji &
Ginwala for the Respondent Nos.2 and 3.

CORAM : A.S. OKA &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED: 20th FEBRUARY, 2017.

P.C.:-

On the basis of an advertisement published by the first Respondent-Hindustan Petroleum Corporation Limited on 31st March, 2010 the Petitioner applied for appointment as a Dealer under the Rajiv Gandhi Rural LPG Dealership scheme. The Petitioner was required to produce documents showing that land was available for construction of godown and showroom on or before the date of the application. The Petitioner applied on 10th May, 2012 as per the advertisement. The Petitioner was relying upon sale deed dated 7th May, 2010. By a communication dated 21st February, 2014 the first Respondent informed the Petitioner that he was ineligible for

appointment as dealer. Relevant parts of the communication dated 21st April, 2014 reads thus :-

“During re-verification, following observations are recorded;
1) Field Verification of Credentials (FVC) has been conducted on 29/4/2011 by two committee members of HPCL, wherein it has been clearly brought out that ownership rights of applicant's land at Survey No.450/4 admeasuring area of 0.06R vide registered sale deed No.1121/2010 dated 07/05/2010 and 7/12 extract dated 29/04/2011 issued by Talathi Walwa are not transferred in the name of applicant. It has been noticed during FVC that the sale deed by original owners is executed twice for said piece of land with details as follows;

a) Sale Deed No.2084/1999 between Mr. Nandkumar Jagannath Jadhav (Seller) and Mr. Rangrao Sadashiv Chavan (Purchaser) for 0.02R

b) Sale Deed no.2085/1999 between Mr. Jagannath Bhau Jadhav (Seller) and Mr. Hanmant Mahadev Pawar & 2 others (Purchaser) for 0.03R.

c) Sale Deed no.2086/1999 between Mr. Chandrakant Jagannath Jadhav and Mr. Dnyandev Bhau Jadhav (Seller) and Mr. Balaso Sadashiv Chavan (Purchaser) for 0.03R (Here, Mr. Chandrakant Jagannath Jadhav owned and sold 0.02R out of 0.03R of sale deed)

Above owners for their owned area of 0.07R had already executed sale deed during 1999 with the Sub Registrar, Ashta. However, the same owners have again executed sale deed during 2010 for 0.06R for same survey no.450/4.

During re-verification, we have also obtained 7/12 extract and Ferfar Form No.6 dated 15/02/2014 issued by Talathi Walwa wherein 7/12 extract carries name of Mr. Ramchandra Mhallapa Kamble. However, it is observed that mutation entry towards ownership of Mr. Ramchandra Mhallapa Kamble is sanctioned by Circle Officer on 15/11/2010 as evident from above referred Ferfar Form No.6 dated 15/02/2014 which is in contradiction with 7/12 extract dated 29/04/2011 obtained during FVC. This is clear that 7/12 extract dated 29/04/2011 did not carried name of

Mr. Ramchandra Mhallapa Kamble and the same has been inducted in back dated in the Ferfar Form No.6 as stated above.

As per clause no.9 of general instructions for applicants applying for RGGLV given in the advertisement dated 31/3/2010 and Information Brochure for Selection of RGGLV, wherein it is clearly directed that applicant during verification has to submit registered sale deed along with recorded mutation entries towards ownership shall be available as on date of application, which is not complied by applicant as above.

In view of above, it is established that title of the property viz land at survey no.450/4 offered for LPG godown at Walwa by applicant was not clear. As ownership of land for godown was one of the basic eligibility criterion for applying for RGGLV, your candidature for RGGLV Walwa stand cancelled.”

(underlines supplied)

2. The learned counsel for the Petitioner invited our attention to the consent decree passed in Regular Civil Suit No.246 of 2011 on 19th August, 2011 to which the persons shown as Purchasers in the earlier sale deeds in respect of the property offered by the Petitioner were parties. He pointed out that the defendants in the suit accepted by way of consent decree that the Petitioner has become the owner of land bearing Survey No.450/4 admeasuring 0.06R under a registered sale deed dated 7th May, 2010. He has submitted that in terms of earlier orders passed by this Court, a proper opportunity of being heard was not granted to the Petitioner. He has submitted that if proper opportunity of being heard would have been granted to the Petitioner,

he could have satisfied the authority that defect found in the mutation entries in respect of the land bearing Survey No.450/4 is curable and in fact the same has been cured. He, therefore, submits that after curing of the defects in mutation entries, now the name of the Petitioner is mutated in the revenue records of the land offered by him. He has, therefore, submitted that the impugned communication is bad in law especially when there is no other eligible Applicant for the site for which the Petitioner had applied.

3. We have carefully considered the submissions. Though the Petitioner was relying upon sale deed dated 7th May, 2010, which was executed in respect of Survey No.450/4, on the date of making application for grant of dealership, the name of the Petitioner was not mutated in the revenue record in respect of the said land. Even as of 29th April, 2011 the name of the Petitioner was not mutated in the revenue record. Apart from this fact, it was found that in the year 1999, there were two sale deeds executed in respect of two different portions of the said land in favour of the third parties. Therefore, it was found that on the date of filing the application, the Petitioner had no clear title to the land offered by him. Even till the last date of filing application as provided in the advertisement dated 31st March, 2010,

the Petitioner had no clear title. In fact, on 15th June, 2011 the Petitioner filed a civil suit against his predecessor in title as well as the persons in whose favour two portions of the said land were sold in the year 1999. In the said suit, the Petitioner did not claim the declaration of title but the suit was simplicitor for injunction. Consent Terms were filed in the suit on 19th August, 2011 by which the defendants accepted the title of the Petitioner on the basis of the sale deed dated 7th May, 2010. Accordingly, consent decree was passed on 19th August, 2011.

4. Thus, till the last date for filing the application for dealership, the Petitioner never had a clear title to the land offered by him for construction of godown and showroom. Therefore, as per the terms and conditions in the advertisement and the general instructions to the candidates, the Petitioner was ineligible. Hence, we find no error in the communication issued by the first Respondent on 21st February, 2014.

5. Even going by the admitted facts, as on the last date fixed for filing an application, the Petitioner, had no clear title and his name was not mutated in the 7/12 extracts. Hence, there is no merit in the Petition and the same is accordingly rejected.

6. The learned counsel appearing for the Petitioner seeks continuation of ad-interim relief. Accordingly, we direct that the ad-interim relief which is operative till today, shall continue to operate for a period of six weeks from today.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)