

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.20961 of 2017

ORDER:

Heard learned counsel for the petitioner firm represented by its partner Sri C.Radha Krishnam Raju and the learned Government Pleader for Civil Supplies for respondent Nos.1 & 2 and learned Standing Counsel for the 3rd respondent-HPCL and also learned counsel for the unofficial 4th respondent and perused the prayer in the writ petition with the supporting affidavit and the impugned proceedings No.D1/93/2017 of the Joint Collector, Chittoor, dated 22.06.2017 and also counter affidavit filed by the unofficial respondent No.4 and other material on record.

2. The prayer in the writ petition is as follows:

“To issue a writ of mandamus, or any other appropriate writ, order or direction declaring the proceedings No.D1/93/2017, dated 22.06.2017 issued by the 2nd respondent received by the petitioner on 23.06.2017 at 6 PM suspending the licence granted in Form-B until further orders as illegal, arbitrary, in violation of principles of natural justice and without jurisdiction and set aside the same and pass such other order or orders.”

3. The relationship between the writ petitioner's partner C.Radha Krishnam Raju with 4th respondent-G.Sridhar Raju, no other than brother-in-laws to each other not in dispute. The writ petition supporting affidavit averments of said Radha Krishnam Raju in the writ petition are that his father in law/father of 4th respondent is late G.Venkata Rama Raju and his wife Smt. C.Madhavi is daughter of said Venkata Rama Raju and said Venkata Rama Raju and Madhavi are the original owners to an extent of 491 square yards in S.No.254/2 Tirupati Revenue Village within M.R.Palli Panchayat, Chittoor District and the 2

land owners supra executed registered lease deed dated 15.12.2003 vide document No.7748/2003 in favour of the petitioner firm Siva Pavani Filling Station by mentioning that the said firm was representing by G.Venkata Rama Raju & K.Manoj Kumar Reddy. It is based on said lease document, the petitioner firm executed Memorandum of sub lease dated 08.12.2003 in favour of the 3rd respondent-HPCL vide document No.7761/2003. However, said G.Venkata Rama Raju withdrawn from the business as partner and thereby the original lease deed dated 15.12.2003 supra was cancelled vide surrender of lease agreement No.3154/2004 dated 29.04.2004 and consequently another deed of lease No.3155/2004 dated 29.04.2004 was executed by G.Venkata Rama Raju and Madhavi supra in favour of the petitioner firm represented only by then by K.Manoj Kumar Reddy and as a consequence a fresh sub lease deed No.3156/2004 dated 16.04.2004 was executed in favour of 3rd respondent by the petitioner firm having cancelled the earlier sub lease dated 08.12.2003 vide cancellation document No.3153/2004 dated 08.04.2004. The petitioner firm present partner C.Radha Krishnam Raju was inducted as partner of the petitioner firm as it was from retirement of G.Venkata Rama Raju, only continued by K.Manoj Kumar Reddy of the petitioner entity, it was referred as if a proprietor concern in the form-B licence that was issued by the Collector (CS), Chittoor, and in fact the dealership agreement executed by HPCL-R.3 in favour of the petitioner firm on 04.01.2005 reflects the names of Manoj Kumar Reddy and C.Radha Krishnam Raju and the then Collector (CS) thereby by including the name of C.Radha Krishnam Raju also in

the form-B licence issued original by name Manoj Kumar Reddy, duly signed and it was consequently the licence in form-B was renewing for every 2 years and the last renewal on 01.01.2014 till 31.12.2016 and before expiry of said 2 years renewal period by 31.12.2016, the Government of A.P. represented by Principal Secretary (CS) issued G.O.Ms.No.17 dated 21.11.2016 whereunder clause (5) of A.P. Petroleum Product (Licensing & Regulation of Supplies) 1980 was amended and incorporated that the licence once issued would be made valid for life period without insisting on the renewal.

4. It is while so to the surprise of the petitioner's firm a notice dated 28.03.2017 vide No.D1/93/2017 was issued by the Collector (CS) to Manoj Kumar Reddy, C.Radha Krishnam Raju, Madhavi and R.4-Sridhar Reddy which shows based on the complaint dated 27.03.2017 of R.4-Sridhar Reddy and even copy of said complaint not enclosed much less made known from said notice issued by the 2nd respondent-Collector (CS) in calling for explanation with regard to the fact of the demise of G.Venkata Rama Raju as to there is any requirement of reconstitution of form-B licence and detailed explanation dated 04.04.2017 is submitted by Radha Krishnam Raju and Madhavi on behalf of the petitioner firm by specifically bringing to the notice of Collector (CS) of Radha Krishnam Raju joined as a partner and G.Venkata Rama Raju in the original lease also referred as a partner ceased as such and the form-B licence has been renewing from time to time without objection till G.O.Ms.No.17 dated 21.11.2016 issued thereafter, no further renewal required and from death of G.Venkata Rama Raju, it would not effect the form-B licence or

lease for G.Venkata Rama Raju was not the partner of the petitioner firm by the time of his death. However, without taking into consideration of said explanation, the Collector (CS) passed the impugned order dated 22.06.2017 suspending the form-B licence which is contrary to condition No.12 of the licence and contrary to the principles of natural justice and the impugned order is only influencing by the representation of the 4th respondent without referring to facts and the consequence referred supra and even ignoring the factum of C.Radha Krishnam Raju is included as partner in the year 2007 itself in the form-B licence by the then Joint Collector and same licence has been renewing from time to time later even and even HPCL-R.3 referred in the dealership agreement dated 04.01.2005 itself of C.Radha Krishnam Raju and Manoj Kumar Reddy are the partners of the petitioner firm in granting the dealership and it is thereby wrong on the part of the 2nd respondent-Collector (CS) to say name of Radha Krishnam Raju is not there either in the form-B licence as partner of the firm or otherwise and the suspension of the licence thereby is absolutely illegal and contra to law and against principles of natural justice and is liable to be set aside that too for there is no basis to the 4th respondent to raise the issue from death of his father G.Venkata Rama Raju in 2006, in the year 2017 but for because of other differences to make use of by raising issue baselessly and by not considering in passing said impugned order by the 2nd respondent unjustly and prays to allow the writ petition declaring said proceedings as illegal and mean while to suspend the said proceedings so as to continue the dealership from the licence otherwise in force.

5. The learned Government Pleader for respondent Nos.1 & 2 supported the impugned order of the Collector saying it is a reasoned one and after affording opportunity and it no way requires interference. The 3rd respondent-HPCL supported the contentions of the petitioner in saying the form-B licence is valid in force and showing the name of C.Radha Krishnam Raju as one of the partners and dealership granted showing the name along with Manoj Kumar Reddy since 2004 that is also reflected in dealership agreement executed by HPCL with petitioner firm showing both names as partners of it on 04.01.2005 and the impugned proceedings of the Collector (CS) is liable to be set aside in practically supporting the writ petition averments of the petitioner firm.

6. Whereas it is the contest of the 4th respondent in supporting the impugned proceedings of the Collector (CS), with the contentions in the counter affidavit of the 4th respondent as deponent that the writ petition itself is not maintainable once there is remedy of appeal to impugn the order of the Collector (CS) before the Commissioner (CS) within 30 days and even otherwise on disputed questions of fact a writ Court cannot adjudicate apart from alternative remedy available. It is also from Para 5 of the counter affidavit contended that his late father G.Venkata Rama Raju was partner of the petitioner firm along with Manoj Kumar Reddy as reflected in the original lease deed No.7748/2003 dated 15.12.2003 and the allegation that his father G.Venkata Rama Raju withdrew from the partnership business and thereby the original lease was cancelled by surrender on 29.04.2004 vide document No.3154/2004 is false.

Even the fresh lease deed by document No.3155/2004 executed on same day in referring K.Manoj Kumar Reddy only as proprietor concern and it might be the manipulation by Sri C.Radha Krishnam Raju to eliminate the partnership rights of the 4th respondent's father-G.Venkata Rama Raju. Respondent No.4 came to know and obtained from the Commercial Tax Authorities under RTI proceedings dated 25.01.2017, the purported deed of partnership on 01.04.2008 between C.Radha Krishnam Raju and Manoj Kumar Reddy by referring G.Venkata Rama Raju's retirement despite the fact that G.Venkata Rama Raju died on 11.09.2006 and the purported deed of partnership is nothing but a rank forgery so also the induction of Sri C.Radha Krishnam Raju, the deponent in the writ petition in showing as if partner of petitioner firm might be in cause managing 3rd respondent and it is a mystery how HPCL-R.3 issued dealership agreement mentioning name of C.Radha Krishnam Raju and Manoj Kumar Reddy, on 04.01.2005. The writ petition affidavit averments of no objection raised in this regard on form-B licence is incorrect. It is after filing of suit O.S.No.126/2015 by C.Madhavi W/o. C.Radha Krishnam Raju and also 2 other sisters of respondent No.4 in claiming relief of partition over the properties of respondent No.4's father G.Venkata Rama Raju, in the suit pending on the file of V Additional District Judge, Tirupati. R.4 as party to the suit, on enquiry came to know all these facts including the fraud played by Radha Krishnam Raju and Manoj Kumar Reddy and cause issued legal notices dated 07.01.2016 and 08.08.2016 to the petitioner firm and Sri C.Radha Krishnam Raju and it is based on which and from complaint to 2nd respondent pursuant to the

notice before enquiry issued on 28.03.2017 fixing date of enquiry on 04.04.2017, the impugned order passed by the 2nd respondent rightly by considering the facts that the form-B licence continuation is not correct by inclusion of name of C.Radha Krishnam Raju without proper reconstruction of any partnership firm by any deed including by showing legal heirs of G.Venkata Rama Raju. The writ petitioner cannot choose to interpret said notice contents much less to complain any violation of principles of natural justice. The writ petition affidavit averments of G.Venkata Rama Raju never a partner of the petitioner firm is contrary to record. The record clearly shows manipulations by the deponent of the writ petition affidavit styling as partner of the petitioner firm intentionally in causing injustice to respondent No.4. Thereby and in view of the above facts impugning the order in question and from the efficacious alternative remedy as available by appeal to the Commissioner (CS), the writ petition is unsustainable and the impugned orders are otherwise valid and several allegations and averments are contrary to law and unsustainable and sought for dismissal of the writ petition.

7. Pursuant to the above, heard both sides at length and perused the material on record and also the expressions placed reliance with supporting rival contentions of the petitioner and 4th respondent supra.

8. The first point raised is on the maintainability of the writ petition. Thus, before going into the other merits of the matter, it is necessary to answer the same.

9. The respondent No.4 placed reliance upon the expression of the Apex Court in **State of Kerala & Others Vs. M.K. Jose**¹, it is in relation to the facts on termination of a contract awarded to the respondent and forfeiting the security deposit of the petitioners before the Supreme Court, pursuant to the contract terms. There the work covered by the agreement entered dated 18.12.2010 to complete within 12 months as per the terms stipulated that could not be completed, even time is extended till 30.06.2012 and again till 31.03.2013 and despite notice and instructions failed to complete and thereby the petitioner-Government represented by Executive Engineer issued direction dated 14.02.2013 to stop the work also for deviations in the work and revised estimate sought to be done not sanctioned and pursuant to which the writ petition was maintained and the High Court disposed of by directing the Principal Secretary to take a decision on the proposal of revised estimate and the respondent-contractor later filed contempt petition against the Principal Secretary that was no doubt dropped and he later filed another writ petition where High Court directed the Principal Secretary, PWD to consider and pass appropriate orders on his representation made earlier. Therefrom the Apex Court observed that the facts supra show the attitude of the respondent contractor in filing representations and writ petitions not only two in 2012, but also 3 more in 2013 in obtaining orders and directions and in the scenario the contract was eventually terminated by PWD department of Kerala. That termination was ultimately assailed in writ petition No.22541 of 2013 for

¹ 2015 (9) SCC 433=AIR 2015 SC 3405

mandamus with a direction to take steps for measurement of work completed and learned Single Judge of Kerala High Court directed so and when assailed in writ appeal, the appellate Court on 17.12.2013 passed an order saying more than 50% of work remains to be completed from Ex.P15 order and the contractor's affidavit dated 15.03.2013 in one of the earlier writ petitions show as if 70% work completed and the submission as if 90% work completed are not correct. The Counsel for the Contractor then sought for appointment of an advocate commissioner to substantiate the contentions of 90% of the work completed and eventually the Division Bench appointed 2 advocates as commissioners to submit joint report and with direction to provide necessary assistance to the Commissioner by permitting them the power to call for record from any Office. The commissioners submitted their report. The Bench on the basis of final report held that the order of termination is erroneous from the competent authority opined more than 50% work remained to be done as a factual defect, since commissioners report shows otherwise, in quashing said order of termination with a direction to the Superintending Engineer, PWD to consider and dispose of the matter afresh by affording opportunity to the contractor. Then the issue arisen before the Apex Court where in the factual scenario it is observed that this kind of orders in a contract matter by the High Court under Article 226 of Constitution of India are ill-conceived by converting the controversy into disturbing labyrinth, but encourage frivolous litigation. The High Court should not have been appointed an advocate commissioner for what precisely was the quantum of work done and whether

there had been a breach by the contractor are required to be gone into by the appropriate legal forum for writ Court ordinarily should not entertain a matter of breach of contract involving disputed questions of fact. The case on hand indicates the same as also held by one of the 2 Judge Bench expression of the Apex Court in **State of Bihar Vs. Jain Plastics and Chemicals Limited**² that where disputed question of law involved and to adjudicate the same there is an alternative and efficacious remedy open to the litigant, he should be required to pursue that remedy and not invoke the writ jurisdiction. Though existence of alternative remedy does not affect the jurisdiction to issue writ under Article 226 of Constitution of India, but for seriously disputed questions or rival claims of the parties with regard to breach of contract raised are to be investigated and determined in the form of alternative efficacious remedy. The Apex Court referred other expressions including **National Highways Authority of India Vs. Ganga Enterprises**³, where on the forfeiture of security deposit is without authority and questioned the breach of contract impugned in holding the dispute in the case purely involve terms of offer in the contract from the alternative remedies available effectively writ jurisdiction is not an appropriate remedy to adjudicate such contractual dispute, though there are cases where writ court was enforcing statutory right or duty. The other decision referred is **Gunwant Kaur Vs. Municipal Committee, Bhatinda**⁴, that even on disputed facts exercise of writ jurisdiction is, it is true, discretionary but must

² (2002) 1 SCC 216³ (2003) 7 SCC 410⁴ (1969) 3 SCC 769

be exercised on sound judicial principles. It also referred the other expression of the Apex Court in **ABL International Limited Vs. Export Credit Guarantee Corporation of India Limited**⁵, which refers to **Gunwant Kaur supra** and other earlier expression in **Century Spg. And Mfg. Co. Ltd. Vs. Ulhasnagar Municipal Council**⁶ that merely because one of the parties raised a dispute in regard to the facts of the case, the Court entertained writ petition under Article 226 is not always bound to relegate the parties to a suit or other remedy as held in **Gunwant Kaur supra** in a writ petition that if the facts require even oral evidence to be taken, in an appropriate case writ court has jurisdiction to entertain writ petition involving disputed questions of fact for there is no absolute bar for entertaining writ petition even if same arises out of contractual obligation and/or involves some disputed questions of facts. The other expression of the Apex Court in **Whirlpool Corporation Vs. Registrar of Trade Marks**⁷ says the plenary right of the High Court to issue a prerogative writ will not ordinarily be exercised to the exclusion of other available remedies unless such action of the State or its instrumentality is arbitrary and unreasonable or for other valid and legitimate reasons, where the Court thinks it necessary to exercise the said jurisdiction including for any violation of Article 14 of the Constitution of India. It is by referring to observe in Para 18, more particularly, from **ABL International supra** among others held that each case depends upon own facts and public

⁵ (2004) 3 SCC 553

⁶ (1970) 1 SCC 582

⁷ (1998) 8 SCC 1

interest as held in **Binny Limited Vs. Sadasivan**⁸ and **G.B. Mahajan Vs. Jalgaon Municipal Council**⁹ and **Noble Resources Limited Vs. State of Orissa and Another**¹⁰, where a public law element is involved judicial review is permissible by entertaining writ petition. It is having referred the law on the scope of Article 226 ultimately on the facts held that in the factual scenario several writ petitions filed by the Contractor tantamounts to abuse of process for which the High Court should not have been exercised the restraint by setting aside the order of the High Court and allowed the Civil Appeal of the State by upholding the termination of the contract.

10. In fact from perusal of the above expressions which referred several earlier expressions on the principle of law, it is crystal clear that even availability of efficacious alternative remedy itself is not a bar apart from even disputed questions of fact involved and further, in a case where a public law element is involved, judicial review is also permissible in entertaining writ petition against impugned action of the authorities concerned. Thus, the decision relied has no help to say either availability of alternative remedy is a bar or disputed questions of fact involved is a bar in deciding as to whether the impugned order of the collector (CS) in suspending the Form-B license is arbitrary and unsustainable or not.

11. In fact referring to **ABL International** supra and others expressions right from the expression of the Apex Court in **State**

⁸ (2005) 6 SCC 657

⁹ (1991) 3 SCC 91

¹⁰ (2006) 10 SCC 236

of Orissa Vs. Madangopal Rungta¹¹, writ petition is maintainable. Apart from it, the larger bench of this Court in **Bhamidipati Annapoorna Bhavani Vs. Land Acquisition Officer, Yeleru**¹², referring to several expressions of the Apex Court including **Whirlpool** supra, **ABL International** supra among other held that there are no limits to exercise discretionary power under Article 226 of Constitution of India though such power to be exercised in recognized lines not arbitrarily, but judiciously and availability of alternative and efficacious remedy is not a bar in entertaining a writ petition, but for to decide depending upon facts and circumstances of each case and disputed questions of fact involved also not a bar to entertain a writ petition.

12. The constitution Bench of the Apex Court in **Hari Vishnu Kamath Vs. Ahmad Ishaque**¹³ held on the scope of Article 226 of Constitution of India which confers on High Courts the power to issue appropriate writs to any person or authority within its territorial jurisdiction in terms of absolute and unequivocal and if the High Courts are to recognize or admit any limitation on this power that must be founded on some provision in the Constitution itself and not otherwise. In **State of Madhya Pradesh Vs. Sanjay Nagayach**¹⁴, the Apex Court held that alternative remedy of statutory appeal no way a bar when the action of the statutory authority is questioned as arbitrary and in violation of any provision of law or Rules. In **Sri Siddeshwara**

¹¹ AIR 1952 SC 12

¹² (2005) 2 ALT 786

¹³ AIR 1955 SC 233

¹⁴ 2013 (7) SCC 25

Cooperative Bank Limited Vs. Ikbali¹⁵, the Apex Court held that availability of efficacious alternative remedy is not an absolute bar, but for, self-restraint.

13. Having regard to the above, the writ petition is maintainable.

14. Now coming to the impugned order suspending the license in question is sustainable or not? From the disputed facts placed on record, the registered first lease deed vide document No.7748/2003 dated 15.12.2003 executed was by G.Venkata Rama Raju, father in law of writ petitioner's firm partner C.Radha Krishnam Raju and father of 4th respondent-G.Sridhar Raju and C.Madhavi, no other than one of the daughters of said G.Venkata Rama Raju and wife of C.Radha Krishnam Raju and Sister of G.Sridhar Raju, referring them as lessors and the lessee referred supra was M/s. Siva Pavani Filling Station (writ petitioner firm with partners G.Venkata Rama Raju supra and K.Manoj Kumar Reddy) and the lease was fixed for 15 years from 01.12.2003. The memorandum of lease agreement with HPCL entered shows dated 08.12.2003 to commence from 01.12.2003 for 15 years up to 30.11.2018 and same were cancelled undisputedly and by surrender of lease cancelled agreement dated 29.04.2004 between said G.Venkata Rama Raju and Madhavi as lessors and Siva Pavani Filling Station, writ petitioner firm, represented by Venkata Rama Raju and Manoj Kumar Reddy as partners, as lessee, saying the lease is surrendered by intending to terminate by cancelling earlier registered lease deed entered, till then it reflects 4th respondent's father G.Venkata Rama Raju and Manoj

¹⁵ 2013 (10) SCC 83

Kumar Reddy as partners of petitioner firm. It is on the selfsame day of cancellation of 29.04.2004 of the cancellation of the earlier registered lease deed of 15.12.2003, a fresh deed of lease entered by the lessors Venkata Rama Raju and Madhavi and with the lessee Siva Pavani Filling Station, however in that only Manoj Kumar Reddy referred as proprietor and not Venkata Rama Raju. This is also a registered document No.3155/2004. The registered documents are not in dispute. G.Venkata Rama Raju father of respondent No.4 having conscious of it and even alive for nearly 2 ½ years thereafter never disputed, had he really chosen to become partner and continue as partner of Siva Pavani Filling Station. It is in fact clear of he walked out from original lease intended to stand as partner. Needless to say under the Indian Partnership Act, 1932, even the partnership can be oral, there was nothing to say any registered document or not. The own document executed by G.Venkata Rama Raju cancelling the earlier lease where he stood as one of the partners to Siva Pavani Filling Station (writ petitioner firm) and after cancellation in entering another lease deed for 15 years in not referring him as a partner, but executed the lease in favour of the said entity as lessee by referring only K.Manoj Kumar Reddy as proprietor. Thus it is crystal clear of there is no any role of even the writ petitioner's partner C.Radha Krishnam Raju therein. To that extent there is nothing to attribute any fraud much less by petitioner to say by the 4th respondent. In fact the form-B licence granted by the Collector (CS) as per Andhra Pradesh Petroleum Products (Licensing & Regulation of Supplies Order) 1980, with licence No.73/TPT/2004 was pursuant to it practically after

29.04.2004 in mentioning the licensee Sri Manoj Kumar Reddy of M/s. Siva Pavani Filling Station, Tirupati. The factum of Siva Pavani Filling Station is licensee and Manoj Kumar Reddy is proprietary concern or otherwise is clear therefrom. It is in fact clear from perusal of it that the inclusion of name of the writ petitioner's partner C. Radha Krishnam Raju on 04.06.2007 with initials after Manoj Kumar Reddy and before Siva Pavani Filling Station with initial on 04.06.2007 by the Officer and the signature underneath shows that of the same person with stamp as Joint Collector, Chittoor on 04.06.2007. It practically shows his name is included. It is also clear that subsequent to that for every 2 years, there is a renewal and the last renewal in 2014 up to December 2016. There is amendment by G.O.Ms.No.17 dated 21.11.2016 of every 2 years renewal not required for the form-B licence that, licence once issued be valid for life period without insisting on renewal. Here what is meant by life period, it is the life period of Siva Pavani Filling Station even otherwise it is not the case of Manoj Kumar Reddy is no more. It is at best from 04.06.2007 endorsement shows Manoj Kumar Reddy and C.Radha Krishnam Raju as partner of Siva Pavani Filling Station. In fact supporting to it, the 3rd respondent-HPCL from the original 15 years cancelled by surrender and fresh registered lease for 15 years entered on 29.04.2014 in favour of Siva Pavani Filling Station represented by Manoj Kumar Reddy. The memorandum of sub lease agreement and having so entered on 04.01.2005 itself HPCL issued a memorandum of agreement by mentioning the name of the dealer/licensee K.Manoj Kumar Reddy and C. Radha Krishnam Raju carrying on business in the firm name and

style of M/s. Siva Pavani Filling Station of Doravarisatram, Nellore District. No doubt what R.4 says from the above that there is something fishy. HPCL issued the dealership license to Siva Pavani Filling Station represented by Manoj Kumar Reddy and Radha Krishnam Raju on 04.01.2005 and R.4 cannot dispute and not even disputing the said memorandum of agreement and dealership licence issued by HPCL by attributing anything against HPCL. No doubt in form-B licence the inclusion of name of C.Radha Krishnam Raju was on 04.06.2007 and not before 04.01.2005. The other important aspect respondent No.4 raising with reference to so called partnership deed said to have been submitted by Siva Pavani Filling Station to the Commercial Tax Department which he obtained under RTI Act in January 2017, a copy of the alleged partnership firm deed that was on 01.04.2008. A perusal of which shows it is a deed of partnership from 01.04.2008 between C.Radha Krishnam Raju and Manoj Kumar Reddy as 1st part and 2nd part whereunder Manoj Kumar Reddy admits Radha Krishnam Raju as partner of the writ petitioner firm. It is to be ascertained how it existed and even taken for commercial tax purpose such a partnership deed shown and executed the bearing of it on the form-B licence has to be considered. So far as form-B licence issued by Collector (CS) in favour of M/s. Siva Pavani Filling Station in 2004 and by amending the same incorporated the name of C.Radha Krishnam Raju on 04.06.2007 and any addition of a partner no way amounts to transfer of the interest of Siva Pavani Filling Station totally by Manoj Kumar Reddy to Radha Krishnam Raju, leave apart that cannot be a ground to cancel and any several disputes

between respondent No.4 and the partner of the writ petitioner firm by name C.Radha Krishnam Raju because of wife of C.Radha Krishnam Raju and her other sisters filed a suit for partition against their brother writ petition respondent No.4 for partition by not showing as one of the properties i.e., Siva Pavani Filling Station and the claim by respondent No.4 with the written statement that therein his late father was originally as per lease deed dated 15.12.2003 a partner and he got a right and share along with others in the Siva Pavani Filling Station. Once that is required to be adjudicated keeping that in mind any application is filed before the Collector (CS), the cancellation of the licence by Collector by the impugned order is unsustainable and thereby liable to be cancelled. Needless to say in the civil suit for partition if at all there is need of filing application to safe guard the income from the Siva Pavani Filling Station, it is for the Civil Court to appoint any party receiver by impleading Siva Pavani Filling Station represented by C.Radha Krishnam Raju and Manoj Kumar Reddy as co-defendants for adjudication or to vindicate his grievance and that cannot be a ground to cancel the licence.

15. Accordingly and in the result, the Writ Petition is allowed setting aside the impugned order of the Collector (CS). Needless to say if at all there is any requirement of enquiry regarding the cancellation of licence on any other ground, the Collector (CS) is competent to do so after show cause notice put forth the reason therein specifically and by affording opportunity to give reply within a reasonable time and on considering the same and by meeting the same, if necessary by directing parties

for personal appearance with production of documentary evidence.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 12.07.2017
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