

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT APPEAL NO.472 OF 2018

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri V.Ravinder Rao, learned Senior Counsel appearing on behalf of the appellants, Sri B.Mayur Reddy, learned Standing Counsel for HPCL, and Sri K.Rama Krishna, learned counsel for the respondent-writ petitioner. This appeal, under Clause 15 of the Letters Patent, is preferred by respondents 3 to 5 in WP.No.4141 of 2018 aggrieved by the order passed by the learned Single Judge dated 16.02.2018.

Respondents 1 and 2 herein filed the said Writ Petition seeking a mandamus to declare the action of the Regional Manager, Hindustan Petroleum Corporation Limited (HPCL), in not considering the application made by them for reconstitution of the proprietary concern M/s. Srikalahasthi Gas Company, as arbitrary and unconstitutional.

In the order under appeal, the learned Single Judge recorded the submission of Sri B.Mayur Reddy, learned Standing Counsel for the second respondent, that earlier a relative of the petitioner had filed O.P.No.166 of 2017 on the file of the Principal District Judge, Chittoor under Section 9 of the Arbitration and Conciliation Act; the said O.P. was dismissed; and HPCL would verify the application, said to have been submitted by the petitioners in the Writ Petition, and take an appropriate decision strictly in accordance with law. Recording this submission of the learned Standing Counsel, and without expressing any opinion on merits,

the learned Single Judge disposed of the Writ Petition directing the Regional Manager, HPCL to verify the application dated 15.04.2017, said to have been submitted by the petitioners, and take appropriate action, strictly in accordance with law, within a period of three months from the date of receipt of a copy of the order. The fact that the Writ Petition was disposed of at the stage of admission without notice to the appellants herein, despite their being arrayed as respondents 3 to 5 in the Writ Petition, is not disputed before us.

Sri V.Ravinder Rao, learned Senior Counsel appearing on behalf of the appellants-respondents 3 to 5 in the Writ Petition, would submit that the entire property belongs to the joint family; the first respondent herein and the appellants are siblings; while they are all entitled to a share in the property, and to carry on business jointly, the first respondent was seeking to deprive them of their just share, and to handover the entire business to his daughter, to the detriment of the appellants herein; the *inter-se* disputes between the appellants on the one hand, and the first respondent on the other, are pending consideration before an Arbitrator appointed in terms of the arbitration agreement; and if the order of the learned Single Judge, which appears to be innocuous, is not set aside, it would adversely affect the appellants' interests in the pending arbitral proceedings.

The learned Single Judge has, in the order under appeal, made it amply clear that he has not expressed any opinion on the merits of the dispute. HPCL was directed to consider the application submitted by the first respondent strictly in accordance with law. As the appellants have a rival claim to the said property,

ends of justice would be met if the order under appeal is modified, the appellants herein are permitted to put forth their objection to the reconstitution of the concern operating the petrol pump, and the Regional Manager, HPCL is directed to consider the objections raised by the appellants herein, pass a reasoned order thereupon, and communicate the same to the appellants herein.

The appellants herein shall file their objections, to the application submitted by the first respondent herein to HPCL, within four (4) weeks from today. It is open to the appellants herein to raise all such contentions as are available to them in law, including that reconstitution should not be permitted as the entire dispute is pending resolution before the Arbitrator. The Hindustan Petroleum Corporation shall consider the said objections, and pass a reasoned order thereupon, within three (3) months from the date of receipt of the objections from the appellants herein.

The Writ Appeal is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

22nd March 2018
RRB