

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

WRIT PETITION NO. 14662 of 2018

M/s. Mitrasagar	...	Petitioner
v/s.		
Hindustan Petroleum & Others	...	Respondents

Mr. Siddharth C. Wakankar for the petitioner.
Mr. Javeed Hussain i/b. Hussain & co. for respondent no.1.

CORAM : DAMA SESHADRI NAIDU, J.

Date : 6th November 2019

P.C.

The Firm, running a fuel station, had four partners. When one of the partners died, the petitioner was inducted as the legal heir of the deceased partner. Later, two more partners died. The respective legal heirs want to be the partners, representing the share of their fathers. But there arose a dispute between the surviving two partners—the petitioner and the other partner—whether the LRs of the deceased partners should be inducted into the partnership.

2. That apart, there arose another dispute between the surviving partners, and it has led to arbitration. In the arbitration proceedings, one of the partners applied under Section 9 of the Arbitration and Conciliation Act. He wanted a direction to HPCL not to supply fuel to the filling station until the partnership dispute was resolved. In those

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proceedings, the LRs of the deceased partners wanted to come on record. The learned District Judge, 16th Court, Pune, through order below Exhibit 17 dt.17/03/2018, allowed that application. Aggrieved, the petitioner has filed this writ petition.

3. Heard Shri Siddharth Wakankar, the learned counsel for the petitioner; and Shri Hussain, the learned counsel for respondent no.1. Despite service of notice, none represents the respondents 2 to 4.

4. Indeed, the dispute is between the partners. Technically, the LRs of the deceased partners may not automatically become the partners of the existing Firm. The order impugned records that clause-13 of the partnership deed made the partnership 'at will'. Besides, if any partner is to be inducted, the surviving partners must consent to it. It is the petitioner's case that she has not consented. The remaining partner wanted to induct the legal heirs of the two deceased partners. The petitioner, it seems, apprehends that their induction might tilt the scales.

5. At any rate, the dispute concerns the partnership. And the deceased partners' share still subsists. It is not the petitioner's case that accounts were rendered and that the deceased partners' share or shake has already been disbursed to the LRs. Under these circumstances, I reckon, their presence is necessary. That said, I also hasten to add that the induction of these new partners in the partnership differs from their getting impleaded in pending

arbitration proceedings. The latter is, at best, interim. So, the presence of the deceased partners' LRs in the proceedings under Section 9 of the Act, I note, will not affect the rights of the petitioner in opposing their entry into the partnership firm.

Beyond this clarification, the impugned order needs no interference.

(DAMA SESHADRI NAIDU, J)