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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 750/2016**

RAJNI GUPTA

..... Petitioner

Through Mr Vineet Mehta, Advocate.

versus

HINDUSTAN PETROLEUM CORPORATION
LIMITED

..... Respondent

Through Mr Rikesh Singh, Advocate for HPCL.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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11.04.2019

1. The petitioner has filed the present petition impugning the communication dated 07.10.2015 rejecting the petitioner's application for distribution of LPG at Nand Nagri, District North East Delhi. The petitioner further prays that directions be issued to the respondent to grant distributorship of LPG to the petitioner for the area of Nand Nagri, District North East, Delhi.

2. The respondent (hereafter 'HPCL') had published an advertisement/notice for appointment of LPG Distributor in Nand Nagri, Delhi. Pursuant to the said advertisement, the petitioner submitted her application dated 10.10.2013. It is stated that except the petitioner, no other candidate was shortlisted for grant of distribution at the said location and therefore, on 25.02.2014, HPCL selected the petitioner without conducting any draw of lots.

3. By a letter dated 28.03.2014, HPCL informed the petitioner that she had been selected and further called upon the petitioner to deposit a sum of ₹50,000/- for conducting a field survey. The petitioner was also called upon to keep the certain documents ready including the copy of the land record (i.e. recent Khatoni) for the purposes of verification. In addition, the petitioner was also required to keep the documents of clear “ownership/partnership”.

4. It is stated that HPCL found the documents, pertaining to the petitioner’s ownership of land, deficient and accordingly sent a letter dated 20.06.2014 pointing out that the land in question was not in petitioner’s name/family members name in the revenue records submitted by the petitioner. The petitioner was called upon to revert for establishing a clear and encumbrance free title of the proposed land offered by the petitioner for the LPG godown.

5. Subsequently, in June, 2014 the petitioner submitted a copy of the registered Gift Deed along with the letter of SDM North East, Delhi and a chain of documents to establish the ownership of the land in question.

6. Thereafter, by a letter dated 07.10.2015 – which is impugned in the present petition – HPCL cancelled the petitioner’s candidature for allotment of gas distribution at Nand Nagri, District North East Delhi.

7. In the counter affidavit filed on behalf of the HPCL, it is pointed out that the land in question is recorded in the name of one Mr Horam, son of Bhagwan Sahay. HPCL also examined the chain of documents by virtue of which the petitioner claims the title on the land in question, however, HPCL

found the petitioner's title to be defective.

8. The relevant extract from the counter affidavit indicating the chain of documents and the observations made by HPCL in this regard are set out below:-

“XIV. That it is relevant to explain the chronology in which the said land changed hands and finally transferred in the name of the Petitioner along with some remarkable and noticeable facts. The same are explained underneath:

- i. The said land till date is reflecting in the name of one Shri Horam S/o Sh. Bhagwan in the book/register maintained in concerned revenue records.
- ii. On the even date i.e. 29.07.1998, a notarised Special Power of Attorney was executed by Smt. Shanti in favour of her mother Smt. Bahoti W/o Late Sh. Horam for taking all the acts necessary to relinquish her 1/7th share in the said land (that devolved upon her after the death of her father) in favour of her four brothers namely Sh. Gopi Chand; Sh. Raja Ram; Sh. Peetam Singh & Sh. Desh Raj, all sons of Late Sh. Horam.
- iii. By way of Notarised No Objection Certificate dated 29.07.1998, Smt. Shanti D/o Sh. Horam relinquished her share in the said land (that devolved upon her after the death of her father) in favour of her four brother namely Sh. Gopi Chand; Sh. Raja Ram; Sh. Peetam Singh & Sh. Desh Raj, all sons of Late Sh. Haram.
- iv. By way of registered Relinquishment Deed dated 30.07.1998, Smt. Bahoti W/o Late Sh. Horam, acting on her behalf as well as acting on behalf of her daughters namely Smt. Shanti & Smt. Braham Wati relinquished her own 1/7th share of said land as

well as 1/7th share each of said land devolving upon her two daughters Smt. Shanti & Smt. Braham Wati after the death of Sh. Horam, in favour of her four sons namely Sh. Gopi Chand; Sh. Raja Ram; Sh. Peetam Singh & Sh. Desh Raj.

- v. By way of registered General Power of Attorney dated 31.07.1998, Sh. Gopi Chand; Sh. Raja Ram; Sh. Peetam Singh & Sh. Desh Raj (all sons of Late Sh. Haram) constituted Sh. Rajvir Singh S/o Late Sh. Randhir Singh as lawful attorney with respect to the said land to do all acts specified therein on behalf of the executants.
- vi. By way of registered Sale Deed dated 27.11.1998, Sh. Rajvir Singh S/o Late Sh. Randhir Singh acting in the capacity of attorney on behalf of all the four sons of Late Sh. Horam (named herein above) alienated the said land to his wife Smt. Leela Devi (Remarkable point is that all the pages of said sale deed filed on record have been crossed mark).
- vii. By way of Notarised General Power of Attorney dated 28.04.2000, said Smt. Leela Devi W/o Sh. Rajvir Singh appointed Sh. Omkar Singh S/o Sh. Beg Ram as her lawful attorney with respect to the said land to do all acts specified therein on behalf of the executant.
- viii. Shri Omkar Singh (acting on behalf of Smt. Leela Devi by virtue of notarised GPA dated 28.04.2000) executed notarised GPA dated 22.10.2001 in favour of Sh. Amit Gupta S/o Sh. Rajendra Prasad Gupta with respect to the said land to do all acts specified therein on behalf of the executant. The one important point to be considered is that the executant authorised the attorney holder to receive earnest money at the time of sale of said land, which discern the fact that the attorney holder was not authorised

to accept the entire sale consideration. Besides the notarised GPA, the executants Sh. Omkar Singh also executed Notarised Agreement to Sell dated 22.10.2001 representing himself to be absolute owner of the said land (remarkable point is that the page containing the terms and conditions has been crossed mark, reason best known to Sh. Amit Kumar or his wife who is the Petitioner herein); receipt for full and final payment dated 22.10.2001; possession letter dated 22.10.2001 in favour of said Sh. Amit Gupta.

- ix. By way of registered Gift Deed dated 16.06.2010, said Sh. Amit Gupta S/o Sh. Rajendra Prasad Gupta gifted the said land to her wife Smt. Rajni Gupta (the Petitioner herein) with the stipulation that all the previous GPA are still in force and have not been cancelled so far.
- x. The chain of documents is amiss of the General Power of Attorney, if any executed by Smt. Braham in favour of her mother Smt. Bahoti W/o Late Sh. Horam.
- xi. It is pertinent to note here that in the application submitted by candidate, she has attached only Gift Deed dated 16.06.2010, Agreement to Sell by Sh. Omkar Singh, and notarised GPA by Sh. Omkar Singh in favour of Sh. Amit Gupta.

XV. That it is a settled law that the person holding a defective title cannot transfer a title better than that he himself possess. The chronology and the documents on which the parties named above have acted evinces the fact that the documents were not executed in compliance of the rules and provisions enshrined under the Transfer of Property Act, 1882; The Registration Act & The Indian Contract Act, 1872. Furthermore, it is also hit by the Judgment pronounced by the Hon'ble Supreme Court in the

matter titled as Suraj Lamp & Industries Pvt. Ltd. Vs. State of Haryana & Anr.”

9. In view of the aforesaid, this Court is unable to accept that the decision of HPCL to not accept the petitioner’s title to the land is either arbitrary or unreasonable. Concededly, the land in question is not mutated in the name of the petitioner. Further, the petitioner has been unable to obtain a mutation for the same despite sufficient time being granted to the petitioner. In this regard, the decision of HPCL to cancel the petitioner’s candidature for LPG Distribution cannot be held to be arbitrary or unreasonable. Consequently, no relief can be granted to the petitioner.

10. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

APRIL 11, 2019

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