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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**LPA No.485 of 2021 (O&M)
Date of Decision : 27.05.2021**

Bharat Petroleum Corporation Ltd. & anr. Appellants

Vs.

M/s National Gas Service & others Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE VIKAS BAHL**

Present :- Mr. Raman Sharma, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

1 This appeal has been filed under clause X of Letters Patent Act against the impugned judgment dated 22.04.2021 of the learned single Judge permitting the respondents to apply for transferring the dealership in her name and directing the appellants to consider the same.

2 The primary contention of the learned counsel for the appellants is based on Clause 3 of the Guidelines :-

“3 Reconstitution of Commissioned Distributorship 3.1. Nomination by proprietor/ partners: 3.1.1 Proprietors/ partners of existing distributorship may nominate, in the form to be prescribed, person(s) he/ she desires to transfer his/ her share in the event of his/ her death or incapacitation. Such nomination will, however, be limited to proprietor/ partner(s) own or his/ her spouse’s children (including step children); son in law/ daughter in law; parents (including step father/ step mother); Brother/ Sister(including step brother and step sister); grand-parents (both maternal and paternal); grand-children.” (emphasis supplied)

3 As per him, the word 'incapacitation' would not be attracted in the
present case where the original distributor was convicted of having murdered his
daughter's father-in-law and had used the premises of the gas agency for
destroying the evidence and therefore the learned single Judge has erred in
considering this act of his imprisonment as 'incapacitation'.

4 Notice of motion.

5 Mr. Amit Jhanji, Advocate has entered appearance on behalf of
respondent No.3 and he has sought to defend the order of the learned single
Judge.

6 In our opinion, the issue whether the position of the original
distributor can be termed to be 'incapacitation' has not been frontally and finally
decided by the learned single Judge and consequently while disposing of the
appeal we clarify that whether the original distributor could be said to be
'incapacitated' would also be within the purview of the appellants to decide.

7 Appeal stands disposed of.

8 Since the main case has been decided, the pending Civil
Misc. Application(s), if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(VIKAS BAHL)
JUDGE

27.05.2021

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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No