

29. 08. 2022

BP
Sl. 378 & 379
Court No. 17

WPA 18387 of 2022

Kalpana Pahlaria
Vs.
Indian Oil Corporation Ltd. & Ors.

With

WPA 13685 of 2022

Arati Pahlaria
Vs.
Indian Oil Corporation Ltd. & Ors.

Mr. Ashoke Kumar Banerjee, Sr. Advocate
Mr. Ramesh Dhara
..for the petitioner in WPA 18387
of 2022 and for the respondent
nos. 6 & 7 in WPA 13685 of 2022

Mr. Partha Pratim Roy
Ms. Poulami Chakraborty
..for the petitioner
in WPA 13685 of 2022 and
for the private respondent
in WPA 18387 of 2022

Mr. Amit Kumar Nag
Mr. Maharnab Roy
..for Indian Oil Corporation Ltd.

The dispute really is a family dispute. After the death of the petitioner's husband the partnership firm, according to the Indian Oil Corporation, who has given a licence to run the LPG dealership, was to be reconstituted. There were several meetings between the parties and also with the Indian Oil Corporation. In a meeting dated 11.02.2022 the mother of the expired

person (i.e. her son) has stated that she would like to give NOC. However, Smt. Kalpana Paharia, the petitioner herein is ready to take care of them (means the mother in law and also the father in law). I am told that the father in law is a pension holder. Smt. Arati Paharia, the mother in law informed that she would approach the local mediator to resolve the dispute between her daughter in law and herself.

Mr. Partha Pratim Roy, learned advocate for the private respondent submits that the meeting was convened but the petitioner never appeared there.

After considering the submissions of the parties, I find that the claim of the mother in law and her husband is in respect of the land on which the godown is located as they are the owners of the land. The mother in law has not been taken as a partner of the LPG dealership firm. In my view, when a partner of a partnership, having two partners, dies, the firm can still run as a proprietorship business without taking any new partner. If there is any requirement of settlement of accounts of the partnership firm it was required to be done between a partner and the legal representatives of the other partner (here the husband of the petitioner). The only legal representative in case of the deceased partner here is the mother and the

deceased partner's minor child.

It has been submitted by the petitioner that she is ready and willing to shift the godown of the LPG distributorship to some proper place within six months from date. Apart from that, I direct that she will also send certain amount of money to her mother in law till her death in her bank account month by month and every month.

In such a situation I direct the Indian Oil Corporation to withdraw the suspension of licence of the LPG distributorship immediately for the interest not only of the distributor but also of the general public for whom they distribute the LPG.

Learned advocate for the Indian Oil Corporation has vehemently opposed this view saying that it is against the policy of the company and according to the policy either NOC has to be submitted by the existing partner or partnership firm is to be reconstituted.

I hold that if by change of situation (here it is death of one partner) a partnership firm becomes a proprietorship firm, Indian Oil corporation cannot raise any objection to that. Therefore, there shall not be any further disturbance in respect of running of the distributorship business by Indian Oil Corporation and the other submissions made by the petitioner being the

wife of the deceased partner as to shifting of the godown by six months and payment of certain amount of money month by month and every month till her death in the bank account of her mother in law shall be honoured as an undertaking before this court.

Learned advocate for the Indian Oil Corporation has intimated that the consumers of the LPG dealership of the petitioner firm have been tagged to another LPG distributor.

I direct the Indian Oil Corporation to detag them and to attach it to the present petitioner-distributor within a period of three days from the date of communication of this order.

By this order WPA 18387 of 2022 is disposed of.

However, the other matter being WPA 13685 of 2022 will be heard after the vacation and it will appear in the list on mentioning.

(Abhijit Gangopadhyay, J.)

