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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.07.2024

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.19760 of 2024
& WMP.No.21641 of 2024

R.Arun

... Petitioner

Vs

1.The Territory Manager (Retail)
Bharat Petroleum Corporation Limited,
Trichy Retail Territory, 1st Floor, Raj Towers,
Near Kalaigiar Arivalayam,
Karur Bye Pass Road,
Tiruchirapalli – 620 002.

2.M.Muthazhagi

3.M.Cibi Mathialagan

4.M.Dhivyaa

5.Mrs.Chandra

6.M.Paary

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to allow the petitioner to continue to act as the Interim Dealer of the Petrol Pump dealership business under the name M/s Aruna Enterprises until the pending civil dispute



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in A.S.No.89 of 2019 between the 2nd and 6th respondents regarding the legal heirship of Mr.(Late) S.Mathialagan is finally decided by this Hon'ble Court.

For Petitioner : Mr.V.B.R.Menon

For Respondents : Mr.Rajkumar Jhabakh (R1)
No appearance (R2 to R6)

ORDER

The petitioner had been a partner in a firm by name Aruna Enterprises with one S.Mathialagan. The firm had been operating a Petroleum Retail Outlet as a dealer of Bharath Petroleum Corporation Limited (BPCL)/R1 at Trichy-Chennai Main Road, Padalur, Perambalur District, Tamil Nadu – 621 109 (in short 'bunk'/'bunk in question'). The said Mathialagan passed away on 09.10.2023.

2. Litigation has emanated thereafter inter se R2 to R6, which is stated to be pending presently before this Court in A.S.No.89 of 2019. The petitioner submits that he has invoked the arbitration clause in relation to settlement of various issues arising from the partnership, with the legal heirs of the deceased partner. That is on the one hand.

3. As regards the dealership itself, the petitioner draws attention of this Court to Dispensing Pump and Selling Licence Memorandum of Agreement dated 02.12.2022 (in short 'DPSL Agreement'), entered into between the



erstwhile firm and R1, where clause 13(b) provides determination of the agreement on the death/retirement/permanent incapacity of any partner of the licensee firm. The said clause reads as under:

13.(b) On the death or retirement or permanent incapacity of any partner of the Licensees (if a firm) the Company may at its option at once determine this Agreement and if the option shall not be exercised the agreement shall continue as between the Company and the surviving or continuing partners of the Licensees. The legal representatives of the deceased partners or the retiring partner shall be liable for all obligations of the Licensees incurred upto the date of death or retirement and shall not be entitled to claim from the Company any portion of the security deposit. The death of a partner shall be notified by the Licensees to the Company in writing within 24 hours of such death.

Notwithstanding anything to the contrary herein contained, where the licensee being an individual, whether trading in his individual name or under a firm name, dies, this agreement shall stand terminated forthwith on such death of the Licensee.'

4. While the petitioner states that the option of determination has not been exercised by R1, learned counsel for R1 would draw attention to its letter dated 21.10.2023, wherein they state categorically that upon the demise of S.Mathialagan, the DPSL agreement dated 30.01.2020 has '*come to an end*'. With this, the determination of the dealership has, in fact, been effected by R1.

5. Be that as it may, they have appointed the petitioner as an interim dealer for three months from 21.10.2023 till 20.01.2024 and have been extending the dealership thereafter on representations made by the petitioner. In



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fact, R1 is piqued by the fact that the petitioner has thought it necessary to approach this Court for the relief though it has itself been extending the petitioner for the last few months upon his representations.

6. The prayer of the petitioner in this Writ Petition is for a mandamus directing R1 to allow the petitioner to continue to act as an interim dealer under the name of M/s.Aruna Enterprises till the civil dispute in A.S.No.89 of 2019 inter se R2 to R6 in regard to the legal heirship of S.Mathialagan is finally decided.

7. The prayer, as it is presently couched, is too wide and cannot be countenanced. However, as a measure of arriving at a resolution of the disputes between the parties, the petitioner is directed to make a representation before R1 setting forth his suggestions on way forward within a period of two (2) weeks from today.

8. Upon receipt of such representation, R1 will hear the petitioner and take a view on the requisitions contained therein within an outer time limit of three (3) months from today.

9. The continuance of the petitioner as an interim dealer for the bunk in question shall not be disturbed till such time a decision is taken on the representation to be filed and subject to the same, or for a period of three (3) months from today, whichever is earlier.



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10. This Writ Petition is disposed in the aforesaid terms. No costs.

Connected Miscellaneous Petition is closed.

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Index : Yes / No

Speaking order

Neutral citations: Yes

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To

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