



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-3160-2024 (O&M)  
Reserved on:-06.09.2024  
Pronounced on: 10.09.2024

BHARAT PETROLEUM CORPORATION LTD. AND OTHERS

.... PETITIONERS

Vs.

NARESH KUMAR AND OTHERS

.... RESPONDENTS

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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

Mr. Kanwaljit Singh, Senior Advocate, with  
Ms. Navyugjeet Brar, Advocate, for respondent No.1.

Mr. Rajesh Bhatheja, Advocate, for respondent No.5.

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DEEPAK GUPTA, J.

Petitioners [*BPCL in short*] herein are defendants No.3 to 5 in Civil Suit No.78 of 2017 pending in the Court of Id. Additional Civil Judge (Sr. Div.) Moga, filed by plaintiff-Naresh (*respondent No.1 herein*). They are aggrieved by the order dated 08.04.2024 (Annexure P1) passed by the Court, whereby the application moved by the petitioners for staying the proceedings of the aforesaid suit till the decision of LPA-557-2020 titled 'Indian Oil Corporation Ltd. Vs. Naresh Kumar and others', has been dismissed.

2. As will be borne out from the paper-book, firm M/s Mittal and Company was constituted with plaintiff, defendant No.6 and 9 as its partners. Said firm was granted dealership of Bharat Petroleum Corporation Limited for running a retail outlet of Fuel Filling Station at village Ajitwal, Tehsil and District Moga. As per the case pleaded by plaintiff, the firm was dissolved w.e.f. 30.09.2003 by virtue of a deed of dissolution dated 02.10.2003. Necessary information was sent by the agent/firm to the principal i.e. defendants No.3 to 5/BPCL. The firm was then taken over by the continuing

partner i.e. defendant No.6-Smt. Neelam Mittal, who later on also included defendant No.8 as its partner and which started running the firm.

3. As per the Rules and Regulations of Oil Marketing Companies (OMC), a person already having dealership of an OMC as a proprietor or partner of a firm, cannot apply for dealership of any other Oil Marketing Company. As plaintiff had retired with effect from 30.09.2003 from the partnership firm of M/s Mittal and Company, so he had ceased to be dealer of the defendants-petitioners and so was eligible to apply for a dealership of any other oil marketing company and as such, he applied for Indane Gas Distributorship at Mamdot, Tehsil and District Ferozepur of Indian Oil Corporation Limited on 16.10.2006. Eventually, he was granted the distributorship which was commissioned on 27.06.2014, as his sole proprietorship under the name and style of M/s Mamdot Indane Gas.

4. It is significant to note that the dissolution of the firm M/s Mittal and Company was not accepted by the BPCL, which forced the plaintiff to again file a resignation on 15.11.2009, which was eventually accepted by the BPCL on 21.10.2010. On the basis of information supplied by BPCL to the effect that firm M/s Mittal and Company was dissolved w.e.f. 21.10.2010, the IOCL terminated the distributorship of the plaintiff of M/s Mamdot Indane Gas Services, Mamdot forcing him to file Civil Writ Petition No.21852 of 2017 before this Court. The same was allowed on 11.12.2018 directing the IOCL to re-consider the matter. As the IOCL rejected the representation of the plaintiff again, terminating his distributorship and the order terminating the distributorship dated 03.08.2017 was maintained, a fresh Writ Petition No.27969 of 2019 was filed by the plaintiff to quash the order of termination of his distribution of Indane Gas Agency. The said writ petition was allowed by this Court vide order dated 10.07.2020 (*Annexure P4*) by holding that the Firm M/s Mittal and Company stood dissolved w.e.f. 30.09.2003 by way of the dissolution deed dated 02.10.2003 and that a new partnership firm had been constituted. The LPG distributorship of M/s Mamdot Indane Gas Services was directed to be restored in favour of the plaintiff.

5. Against the aforesaid order dated 10.07.2020 of this Court, IOCL filed LPA No.557 of 2020 before this Court. It was at this stage that BPCL moved an application in the present suit before the Court to stay the proceedings by submitting that the same question as raised the matter in dispute was pending before the High Court in LPA and till the decision of LPA, the proceedings of the present suit be stayed. Said application moved by the BPCL, has been dismissed by the trial Court by way of the impugned order, which has been assailed by the BPCL before this Court.

4. I have considered submissions of both the sides and have appraised the record.

5. The relief claimed in the present suit by the plaintiff is that he ceased to be the partner of M/s Mittal and Company w.e.f. 30.09.2003 and that the BPCL should be directed to correct its record accordingly. On the other hand, in the Writ Petition which was filed before this Court, out of which, the LPA referred by the petitioners, has arisen, the question raised was that whether the dealership of the plaintiff of Indane Gas Agency by IOCL had been wrongly terminated or not. Thus, though one of the common questions involved in the two cases is as to whether the plaintiff ceased to be the partner of M/s Mittal and Company, but the relief claimed in both the cases is entirely different. Besides this, as rightly noted by the trial Court, IOCL is not a party in the present suit. Not only this, the present suit is prior in time, comparing to the writ petition, as was filed by the plaintiff, out of which LPA in question has arisen.

6. For all the reasons as stated above, this Court does not find any illegality and perversity in the impugned order passed by the trial Court. As such, finding no merit in the present revision, the same is hereby dismissed.

10.09.2024

*Vivek*

(DEEPAK GUPTA)  
JUDGE

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| Whether speaking/reasoned? | Yes |
| Whether reportable?        | No  |