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W.A.No.651 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2026

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

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&

C.M.P.Nos.5236 & 5329 of 2025

1. M. Muthazhagi
W/o. (Late) S.Mathialagan
No 3/91, South Street,
Sokkanathapuram Village
Perambalur Taluk, Senjeri Po 621 107
Perambalur District.
2. M.Cibi
S/o. (Late) S.Mathialagan
Rep by his Power Agent P.Narayanasamy
S/o. Peruman Kutty
No 3/91, South Street
Sokkanathapuram Village
Perambalur Taluk, Perambalur District.

Appellant(s)

Vs

1. R.Arun
Partner M/s. Aruna Enterprises
Trichy - Chennai Main Road
Padalur, Perambalur Dist. 621 109.



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2. The Territory Manager (Retail)
M/s. Bharat Petroleum Corporation Limited
Trichy Retail Territory, 1st Floor
Raj Towers, Near Kalignar Arivalayam
Karur Bye Pass Road
Tiruchirappalli 620 002.
3. Chandra
2/276, Bazar Street, Alathur Taluk
Padalur Post 621 109
Perambalur District.
4. M. Dhivyaa
W/o Senthil Kumar
No 109/C5 Venkatesapuram
Opposite M.M.Gas Godown
Perambalur Po 621 212
Perambalur District.
5. M.Paary
2/76, Bazar Street, Alathur Taluk
Padalur Post 621 109
Perambalur District.

Respondent(s)

Prayer : Appeal filed under Clause 15 of the Letters Patent seeking to set aside the order dated 18.02.2025 made in W.P.No.28198 of 2024.

For Appellant(s): Mr. S.R.Rajagopal
Senior Advocate
For Mr. M.A.Abdul Wahab
For M/s. K.V.Subramaniam Associatez

For Respondent(s): Mr. V.B.R.Menon for R1
Mr. P.Rajkumar Jhabakh for R2
Mr. A.G.Veda Vikas
For Mr. Avinash Wadhwani for R3 to R5



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JUDGMENT

(Judgment of the Court was delivered by
the Hon'ble Chief Justice)

This appeal has been filed against the order of the learned Single Judge, whereby, learned Single Judge has disposed of the writ petition filed by first respondent with certain directions regarding re-constitution of the firm, to which, dispensing pump and selling license was granted.

2. Briefly stated, the backdrop in which the writ petition came to be filed by first respondent herein, is that a partnership firm in the name of Aruna Enterprises was granted dispensing pump and selling license by second respondent M/s. Bharat Petroleum Corporation Limited (BPCL) on 02.12.2022. The partnership comprised of Mathialagan and Arun, first respondent herein. Later on, Mathialagan died on 09.10.2023. It appears that BPCL invoked Clause 13(b) of the license and sent a communication on 21.10.2023 to surviving owner Arun to undertake certain exercise for re-constitution of the firm, so that the license could be allowed



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to continue.

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3. It appears that there were internal family disputes in the family of Mathialagan. It is stated that Mathialagan had two wives. Be that as it may, for one reason or other, as there was no unanimity amongst the family members of the deceased, the firm could not be re-constituted despite several opportunities granted by the petroleum company to first respondent. When finally a letter dated 11.09.2024 was issued, giving first respondent last opportunity to re-constitute the firm, failing which, it was stated that the license would be cancelled, first respondent rushed to file writ petition before this Court with the following prayer:

“It is prayed that this Hon’ble Court may be pleased to issue a writ of Certiorarified Mandamus to call for the records of the Order Ref.No.TRT. Aruna Enterprises. Speaking Order dated 11.09.2024 passed by the 1st respondent to allow the petitioner to continue to operate the existing petrol pump at Trichy - Chennai Main Road, Padalur, Perambalur District, Tamilnadu - 621 109 as the dealer until the 1st respondent ascertains and assesses the readiness and suitability of the legal heirs of the erstwhile partner, Mr.(Late) S.Mathialagan, to join the existing business as active partners with the petitioner and execute a reconstituted/fresh partnership agreement in the prescribed format and to pass such



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further order.”

4. First respondent, impleaded legal heirs, including children of second wife in the writ petition.

5. The learned Single Judge, after having considered the issue and in order to find out ways and means to ensure that because of the dispute among family members and deceased Mathialagan, the partnership does not go adversely affecting the continuance of the license itself, disposed of the writ petition with following directions:

“... this Writ Petition is disposed of with the following directions:-

(i) Within 10 days of receiving the web copy of the order, respondents 2 and 3 may express their willingness to join the partnership firm by sending a written letter to the petitioner. If they are willing, then within 10 days of receiving their indication of willingness, the petitioner and respondents 2, 3, 5, and 6 shall enter into a reconstitution of the partnership agreement;

(ii) It is clear that the 51% share of Mathialagan will be equally distributed among these four individuals as of today, subject to the final outcome of the First Appeal.

(iii) Keeping those shares in mind, they shall enter into



a reconstitution agreement, and in conjunction with the reconstitution agreement in the prescribed format, they shall file a representation/application before the 1st respondent;

(iv) The 1st respondent shall convene a meeting and subsequently determine the issue of continuing the dealership, in accordance with the rules, by obtaining the necessary indemnity bonds and ensuring other compliance requirements are met;

(v) Since the above exercise is scheduled to occur within a very short time frame, and even though it is brought to the attention of this Court that the first respondent cannot be put to prejudice as the outlet has had no sales for the past four months, I believe they can wait for another 20 days, and the ad hoc dealer need not be permitted to operate.

(vi) Further decisions can be made contingent upon the parties submitting the reconstitution agreement, and further orders may be issued accordingly;

(vii) The 1st respondent may also choose to begin operating the outlet solely with the petitioner, or they can opt to wait for the reconstitution agreement, which will depend on their commercial decision.

(viii) No costs. Consequently, the connected miscellaneous petition is closed.”

6. The above directions issued by the learned Single Judge are



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challenged in the writ appeal at the instance of the legal heirs of the deceased Mathialagan.

7. Learned Senior Counsel for appellants would vehemently urge before this Court that he and his mother alone are the legal heirs of the deceased Mathialagan and in civil proceedings, a decree has been passed in their favour declaring that they are entitled to half of the share in the property, along with the deceased Mathialagan, without giving any share to the offspring of the so-called marital relationship (which is not admitted).

8. According to learned Senior Counsel, the declaration given by the Court of competent jurisdiction in their favour operates against all and on the face of such decree, though appealed against, the direction could not have been issued by the learned Single Judge for re-constitution of the firm, including and involving the sons and daughters born out of relationship between Mathialagan and Chandra, who, as contended, was not the legally wedded wife of Mathialagan. He would submit that re-constitution of the firm can



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be ordered only by directing the legal heirs of the deceased to be included in the firm, without including others, as, they do not constitute legal heirs.

9. It is contended that as far as the present appellants are concerned, they are willing to join the re-constituted firm along with first respondent, provided the sons and daughters of the so-called second wife are not included. He would submit that their inclusion, under the orders passed by the learned Single Judge, is without any declaratory relief in their favour by any Court of competent jurisdiction that they are entitled to succeed to the property and assets of the deceased Mathialagan.

10. Learned counsel appearing for respondents 3 to 5 and learned counsel for Corporation would submit that the order passed by the learned Single Judge is acceptable to them and therefore, they have not filed any appeal against the order passed by the learned Single Judge. They would submit that present is not a case deciding civil rights of the parties *inter se*, qua the properties of the



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deceased, but only an arrangement to continue with the license for running the petrol pump outlet.

11. We have heard learned counsel for the parties and bestowed our consideration to various submissions made at the bar.

12. It appears that the main cause of dispute, in the present case, arises for the reason that though the Corporation is agreeable to continue with the license, subject to re-constitution of the firm with the legal heirs of the deceased partner Mathialagan, there is a serious dispute amongst the heirs of the deceased. While on the one hand the legally wedded wife and son claim to be the sole successors being the legal heirs of the deceased in respect of the properties of the deceased, including partnership business and private assets etc., the sons and daughters born out of the relationship of Mathialagan with Chandra also claim.

13. Learned counsel for the parties have brought to the notice of this Court that two appeals arising out of judgment and decree



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passed in two civil suits, dealing with various rights of the parties, are pending consideration. However, we find that in a suit for partition in O.S.No.24 of 2013, filed by second appellant herein, M.Cibi, against the father, as also the sons and daughters of the so-called second marriage, a decree has been passed in favour of M.Cibi that he is entitled to partition of the joint family property in equal share with his father and the decree does not recognise any such rights of the illegitimate children. Though appeal is pending, the judgment and decree has not been stayed and therefore, it is still operating.

14. True it is that the decree has been passed in favour of M.Cibi by the civil Court and the matter is pending consideration in appeal, at the same time, the arrangement, which has been made by the writ Court, in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, is only to pave the way for re-constitution of the firm and in order to ensure that the present license agreement, which is limited for the purpose of running the petrol pump outlet, is not disrupted and writ petitioner is allowed to



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operate the petrol pump outlet and it does not decide the civil rights of the parties.

15. The exercise of jurisdiction by writ Court is directly in public domain and has nothing to do with the civil rights of the parties, because, any arrangement made in compliance of the order passed by the learned Single Judge would not adversely affect the claim of any of the parties in respect of the profits of the partnership business or the assets held by the partnership firm, when the partnership consisting of Arun and Mathialagan was existing. As to what would be the rights to which the legal heirs of the deceased would succeed to, insofar as partnership business assets is concerned, could be subject matter of consideration in the event appellants choose to take recourse to civil remedy.

16. We, however, need to modify the order passed by the learned Single Judge to some extent. In the order, we find that the learned Single Judge has observed that if all the sons and daughters are willing, a partnership could be re-constituted with the



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writ petitioner Arun, but, in case all of them are not agreeing, then the partnership could be re-constituted involving those who are willing to become partner in the re-constituted partnership firm. However, the direction which has been issued by the learned Single Judge does not include the second eventuality.

17. Therefore, in order to make the directions effective and executable, we modify the order passed by the learned Single Judge to the extent that if all the heirs of the deceased, including present appellants and respondents 3 to 5, are willing, the direction passed by the learned Single Judge will pave the way for re-constitution of the firm and the license would continue. However, if some of them are not willing, the partnership firm may be re-constituted with those who are willing and the business of the partnership firm, i.e. petrol pump outlet may continue during the subsistence of license.

18. The order of the learned Single Judge is, accordingly, modified to that extent.



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19. Before parting with case, we must make it clear that the direction issued by this Court shall not be treated as determination of civil rights of the parties. In any properly constituted proceedings or in pending proceedings, it shall always be open for appellants and private respondents to claim any right in the properties, which was the subject matter of the suit or the profits of the partnership business or assets of the partnership firm.

20. Appeal is, accordingly, partly allowed modifying the order of the learned Single Judge. There shall be no order as to costs. Consequently, the interim applications are closed.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (G.ARUL MURUGAN,J)
17.02.2026

Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
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