



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3233]**

**TUESDAY ,THE EIGHTEENTH DAY OF JUNE  
TWO THOUSAND AND TWENTY FOUR**

**PRESENT**

**THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN**

**WRIT PETITION Nos.12071 and 17458 of 2023**

**WRIT PETITION NO: 12071/2023**

**Between:**

Rayapati Sujini

**...PETITIONER**

**AND**

The Union Of India and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner:**

1.JYOTHI RATNA ANUMOLU

**Counsel for the Respondent(S):**

1.G.ARUN SHOWRI(CENTRAL GOVT. COUSEL)

2.M L NEELIMA

3.V V SATISH

**The Court made the following:**

**B KRISHNA MOHAN,J**



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**WRIT PETITION NO: 17458/2023**

**Between:**

Rayapati Sujini

**...PETITIONER**

**AND**

The Indian Bank and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner:**

1.JYOTHI RATNA ANUMOLU

**Counsel for the Respondent(S):**

1.M L NEELIMA

2.

3.UPENDRA RAO MANUKONDA

**The Court made the following:**

**IN THE HIGH COURT OF ANDHRA PRADESH, AMARAVATHI**

**HON'BLE SRI JUSTICE B. KRISHNA MOHAN**

**WRIT PETITION Nos.12071 and 17458 of 2023**

**COMMON ORDER:**

Heard the learned Senior counsel for the petitioner, the learned Standing counsel for the respondent-oil corporation, the learned counsel appearing for the respondent –bank and the learned counsel appearing for the unofficial respondents.

2. The W.P.No. 12071 of 2023 was filed questioning the action of the respondent-Oil Corporation in re-constituting the LPG Distribution Agency Code No. 661837, M/s. Venkataramana Enterprises in its present form without including the petitioner as the sole owner in the re-constitution of the said agency and non payment of arrears also due to the petitioner.

3. The W.P.No. 17458 of 2023 was filed questioning the action of the respondent-bank for processing the application(s) made by the 4<sup>th</sup> respondent to open the savings bank account No.415714845 in the name of the petitioner's husband and the Savings Bank Account No.7097764009 in the name of the petitioner in the capacity of the guardian and Administrator of the petitioner's husband by allowing the respondent Nos. 4 to 6 to operate and maintain the said account numbers for the purpose of depositing and withdrawal of the amounts.

4. The learned Senior Counsel for the petitioner in both the cases submits that initially one Mr. Rayapati Veeraiah was awarded the LPG Distributorship

under compassionate grounds for taking care of his Physically Handicapped sons Mr.R.Srinivas and Mr.R.Prasad by the Ministry of Petroleum and Natural Gas vide reference No.P-19015/04/92-IOC dated 21.01.1992. Then the distributorship was commissioned in the name and style of M/s.Venkataramana Enterprises, Guntur with Mr.Rayapati Veeraiah as the sole proprietor on 27.05.1992. After a lapse of about five (5) years of doing the business, at the request of the said Mr.Rayapati Veeraiah, the above said distributorship was reconstituted by inducting his daughter Smt.G.Rajyalakshmi/the 5<sup>th</sup> respondent herein dated 15.04.1997 and 21.05.1997. While so, the said Mr.Rayapati Veeraiah passed away on 06.02.2002 leaving behind his two sons Mr.R.Srinivas/husband of the petitioner and Mr.R.Prasad and his daughter Smt.G.Rajyalakshmi who was already inducted in the distributorship as stated above. In view of the death of Mr.Rayapati Veeraiah, his two sons viz., Mr.R.Srinivas and Mr.R.Prasad made representation dated 15.02.2002 to the respondent-Oil Corporation for reconstitution of the Distributorship in their favour as it was their only source of income which was granted to their father initially on compassionate grounds to take care of them only. Whereas Smt.G.Rajyalakshmi/the 5<sup>th</sup> respondent herein sent a proposal for reconstitution dated 25.03.2003 with a request to induct her son Mr.G.Raghuram/the 6<sup>th</sup> respondent herein as one of the partners stating that her two brothers are mentally/physically unsound and enclosed the false medical certificate. Then the respondent-Oil Corporation

asked Mr.R.Srinivas and Mr.R.Prasad to appear before the Medical Board on 16.06.2003 and 30.06.2003. Then Mr.R.Prasad appeared before the Medical Board and Mr.R.Srinivas did not appear for examination before the Medical Board. Then the 5<sup>th</sup> respondent/Smt.G.Rajyalakshmi submitted a partnership deed dated 06.03.2004 to the respondent-Oil Corporation to reconstitute the Distributorship in favour of her son Mr.G.Raghuram/the 6<sup>th</sup> respondent herein and herself by undertaking to pay a paltry amount of Rs.7,500/- per month to each of her brothers. The above said proposal and the partnership deed were accepted by the respondent-Oil Corporation by reconstituting the above said distributorship dated 06.03.2004 without the consent and knowledge of the petitioner, petitioner's husband and his brother.

5. Aggrieved by the fabrication of the will of late R.Veeraiah created by Smt.G.Rajyalakshmi/the 5<sup>th</sup> respondent and her husband, disputing the same, the petitioner and her husband Mr.R.Srinivas initiated action on 26.03.2004 in P.O.P.No.160 of 2004 which was numbered subsequently as O.S.No.744 of 2012 on the file of senior civil judge, Guntur and the said suit is pending for adjudication. Mr.G.Veeren Chakravarthy, S/o. Smt.G.Rajyalakshmi/ the 7<sup>th</sup> respondent/the 4<sup>th</sup> respondent in the 2<sup>nd</sup> case, Smt.G.Rajyalakshmi/the 5<sup>th</sup> respondent and her husband filed I.A.No.1475 of 2005 in the above said P.O.P.No.160 of 2004 on the file of senior civil judge, Guntur seeking a direction to Mr.R.Srinivas/the husband of the petitioner to appear before the

Medical Board for examination. However, the said trial court rejected the same vide order dated 20.04.2006 observing as under:

*“Admittedly, the respondent was given in marriage with Sujana and that respondent and Sujana are leading marital life under one roof. I personally questioned the respondent and his wife who is acting as guardian of the respondent herein. The respondent is speaking with jerks and halts in normal way and the guardian of the respondent speaking fluently and worldly. In such a case, I feel it is not good and reasonable to refer the respondent and his wife for medical checkup for the purpose to assess their mental capacity, that too on the petition of their opposite party against whom they filed a suit for declaration and mesne profits. Moreover there is no bar under law preventing the wife to act as a guardian of her husband who is physically and mentally disabled to safeguard his interest over the properties belongs to him as her interest is also involved when the husband has no parents, children and brothers.”*

6. In pursuance of the said order of the trial court dated 20.04.2006, the petitioner made a representation to the respondent-Oil Corporation dated 11.08.2006 seeking for reconstitution of the distributorship in their favour by cancelling the distributorship awarded in favour of the respondent Nos.5 and 6/ Smt.G.Rajyalakshmi and Mr.G.Raghuram. Similar representation was also given by the petitioner to the respondent-Oil Corporation dated 17.03.2007. The petitioner also made similar representations dated 05.09.2007 and 26.09.2007 to the Ministry of Petroleum and Natural Gas for reconstitution of the distributorship by including their names cancelling the distributorship

awarded in favour of Smt.G.Rajylakshmi and Mr.G.Raghuram/ the respondent Nos.5 and 6 herein. But there was no response from the respondent-Oil Corporation.

7. Aggrieved by the order passed by the trial court in I.A.No.1475 of 2005 in P.O.P.No.160 of 2004 dated 20.04.2006, the respondent No.5, her husband and the 7<sup>th</sup> respondent herein filed CRP No.5352 of 2006 before this Hon'ble Court and the same was dismissed vide order dated 01.03.2011. The 7<sup>th</sup> respondent herein also filed a petition in MHOP No.131 of 2013 on the file of Principal District Judge, Guntur to declare the petitioner herein and her husband as mentally unsound but the same was dismissed by the learned Principal District Judge vide order dated 13.08.2018 observing as follows:

*"The interesting facet of the present case is that there are rival claims between the 3rd respondent and the petitioner. The petitioner is claiming that he want to be the guardian and he is claiming that the respondents 1 & 2 are mentally ill. The respondent No.2 is the wife of the 1st respondent. The specific stand of the respondents 1 & 2 is that they are not mentally ill althrough the 1st respondent is suffering with some disability physical and speaking. But, he has worldly wiseness in thinking. Further it is claimed that the respondent No.2 being the wife and capable of managing the affairs.*

*Further interesting angle of the case is that the petitioner is having property disputes with the respondents 1 & 2 and he is claiming appointment of himself as guardian for the respondents 1 & 2 with whom he has property disputes. This Court entertained a doubt as to maintainability of the application*

*particularly when the mentally ill person is shown as respondent. The argument of the counsel for the petitioner is that serving of notice is contemplated on the mentally ill person for holding judicial inquisition, therefore, the mentally ill person can be made as respondent.*

*Serving of notice on the mentally ill person is contemplated for the purpose of securing the presence of mentally ill person, but not for making the mentally ill person as respondent. The provision meant for holding judicial inquisition contemplates not only for service of notice on the mentally ill person, but it also contemplates that notice shall be served on the person in whose custody the mentally ill person is there.*

*The provision Section 50 (2) of the Act contemplates service of notice on the person having custody of allegedly mentally ill person. The wording used is 'shall'. The petitioner did not specify as to in whose custody and control the respondents 1 & 2 are there. According to the description of respondents 1 & 2 in the petition, they are shown as independent persons and they are not shown as under anybody's custody. As per the assertions in the petition, the petitioner was appointed as a testamentary guardian over the respondents vide para 'H' page 4 and 5 of the petition. That Will is in dispute. There is also already existing dispute that the 3rd respondent is claiming as guardian in respect of another son of late Veeraiah. The mentally ill condition of the respondents 1 & 2 itself is in dispute. They are shown directly in the petition and they have signed in vakalat and engaged advocate. The 2nd respondent signed in English in the counter filed."*

8. While so, the petitioner's husband's brother Mr.R.Prasad died on 14.12.2018 and after few years, the petitioner's husband Mr.R.Srinivas also passed away on 13.05.2021. In spite of the above said representations of the petitioner and her husband during his lifetime for reconstitution of the above said distributorship, they were not considered by the respondent-Oil Corporation. The petitioner made R.T.I application dated 04.03.2003 seeking information about the status of distributorship. Subsequently, the petitioner addressed letters to the respondent-Oil Corporation dated 12.03.2023 and 30.03.2023 for reconstitution of the distributorship in her favour by cancelling the distributorship awarded in favour of the respondent Nos. 5 and 6 herein as stated above.

9. The petitioner also addressed a letter to the respondent-bank in the 2<sup>nd</sup> case dated 21.01.2023 informing the mischief played by the 6<sup>th</sup> respondent in the 2<sup>nd</sup> case in opening the Savings Bank Account bearing No.415714845 in the name of her husband and the Savings Bank Account No.7097764009 in the name of the petitioner. It was also informed that two Fixed Deposit accounts bearing Nos. 6645563574 and 6645563570 were also opened in the name of the petitioner's husband by the unofficial respondents. The said acts were done without the knowledge and consent of the petitioner and her husband.

10. The learned Senior Counsel appearing for the petitioner submits that the above said reconstitution of the distributorship of the unofficial

respondents is illegal and contrary to the BPCL Reconstitution Guidelines. Without the consent of the petitioner's husband and the petitioner, the respondent-Oil Corporation reconstituted the above said distributorship in favour of the unofficial respondents which is not permissible under law. When the petitioner is mentally and physically capable, she cannot be represented by the self-styled and proclaimed as guardian by the 7<sup>th</sup> respondent. When the above said LPG distributorship was initially allotted on compassionate grounds for the benefit of the petitioner's husband and his brother, the further reconstitution with the unofficial respondents in the absence of the inclusion of the above said disabled persons and their Legal heirs/ the petitioner herein is bad in law. On account of misrepresentation and suppression of facts by the unofficial respondents, the respondent-Oil Corporation reconstituted the above said distributorship in favour of the unofficial respondents only ignoring the legitimate claim of the petitioner herein.

11. On the other hand, the learned Standing counsel appearing for the respondent Nos. 2 to 4 Oil Corporation relying upon the counter affidavit of the respondent Nos. 2 to 4 submits that Mr.Rayapati Veeraiah was awarded LPG distributorship under compassionate grounds by the Ministry of Petroleum and Natural Gas (MOPNG) vide reference No.P-19015/04/92-IOC dated 21.01.1992 on the ground that his two children are not physically fit and the dealership is required for bringing them up and that their mother died on 08.04.1980. The Distributorship was commissioned on 27.05.1992 under the name and style of M/s.Venkataramana Enterprises, Guntur with Mr.Rayapati

Veeraiah as the sole proprietor. Later in the course of time, at the request of Mr.Rayapati Veeraiah, the distributorship was reconstituted by inducting his daughter Smt.G.Rajyalakshmi/the 5<sup>th</sup> respondent as partner to the distributorship with effect from 21.05.1997. The said Mr.Rayapati Veeraiah expired on 06.02.2002 and thus the surviving partner Smt.G.Rajyalakshmi/the 5<sup>th</sup> respondent sent a proposal for reconstitution in the year 2002 with a request to the corporation to induct her son Mr.G.Raghuram/the 6<sup>th</sup> respondent as one of the partners. She also confirmed that her two brothers have no capacity to do any work as they are mentally/physically unsound and enclosed a medical certificate to that effect. The husband of the petitioner Mr.R.Srinivas, one of the sons of late Mr.R.Veeraiah requested the corporation to reconstitute the LPG distributorship by inducting him and his brother Mr.R.Prasad as partners in the place of their father. Then the respondent-corporation advised them to appear before the Medical board at Gandhi Hospital, Secunderabad on 16.06.2003. As per the clause 4.5 (b) of the brochure for selection of Bharat petroleum "the applicants should not be totally paralysed, mentally unsound and totally blind persons". One of the sons Mr.R.Prasad appeared before the Medical Board for examination and the Medical Board issued the certificate that the candidate is mentally retarded and cannot earn his livelihood and is totally dependent on parents/guardian. The other son Mr.R.Srinivas/husband of the petitioner did not appear before

the Medical Board for examination on 16.06.2003 and 30.06.2003 despite providing another chance with a due reminder. Smt.G.Rajyalakshmi/the 5<sup>th</sup> respondent sent undertaking that she would pay an amount of Rs.7,500/- per month each to her brothers to take care of their welfare. The Ministry of Petroleum and Natural Gas (MOPNG) approved the said proposal vide letter reference No. P-20015/2/2003/MKT dated 05.11.2003. Accordingly, the reconstitution of distributorship with her son Mr.G.Raghuram was carried out vide agreement dated 06.03.2004. Smt.G.Rajyalakshmi as undertaken in her proposal and partnership deed with Mr.G.Raghuram has been depositing the said amounts in the bank accounts of her siblings from April, 2004 onwards in the account Nos.415714834 and 415714845 of Indian Bank, Brodipet, Guntur branch. It is true that her siblings Mr.R.Prasad passed away on 14.12.2018 and Mr.R.Srinivas passed away on 30.05.2021 respectively. Hence, the monthly maintenance amount of Rs.7,500/- is being paid to the petitioner/the wife of Mr.R.Srinivas Rao with effect from 01.06.2021 onwards. When the petitioner and her husband came to know about the reconstitution of the distributorship by inducting Mr.G.Raghuram in the year 2006, they should have questioned the same. But with the delay of 17 years, the petitioner filed this writ petition.

12. The learned Standing counsel appearing for the respondent Nos. 2 to 4 of the Oil Corporation submits that it is a civil dispute and there exists an alternative remedy and the petitioner's husband did not appear before the

Medical Board during his lifetime when the respondent corporation requested him to appear as stated above. Hence, it is hit by the delay and latches.

13. On the other hand, the learned counsel appearing for the respondent Nos. 5 to 7 relying upon their counter submits that late Mr.R.Veeraiah was doing business of Bharat Gas LPG distributorship as sole proprietor in the name and style of M/s.Venkataramana Enterprises since 1992. Five years later, on account of his old age, considering the mental and physical incapacity of his two sons and unstable mind of his daughter in law, the said Mr.R.Veeraiah admitted the 5<sup>th</sup> respondent/his daughter as partner with 49% share in the said LPG Distributorship in the year 1997 for smooth running of LPG distributorship and to safeguard the interests of his two physically and mentally handicapped sons with the consent and approval of the respondent oil corporation. The said Mr.R.Veeraiah died on 06.02.2002. But during his lifetime late Mr.R.Veeraiah executed a registered Will dated 05.03.1999 cancelling the registered Will dated 13.09.1996 bequeathing the properties to the unofficial respondents as well as the petitioner herein as detailed in the said Willin order to safeguard the interests of his two mentally handicapped sons and his daughter in law/the petitioner herein. It is not true that late Mr. R.Veeraiah executed any Will dated 12.10.2001. The petitioner's husband did not give any representation to the respondent oil corporation dated 15.03.2002 as contended by the petitioner. But when the respondent oil corporation requested the petitioner's husband to appear before the Medical Board, only Mr.R.Prasad appeared before the said board at Gandhi Hospital,

Secunderabad on 27.06.2003 and the Medical Board gave their opinion. But Mr.R.Srinivas/the husband of the petitioner did not appear before the Medical Board. The petitioner and her husband filed W.P.No.13918 of 2003 against the respondent oil corporation and after filing the counter affidavit by the 5<sup>th</sup> respondent herein in the said writ petition, the same was withdrawn on 22.09.2003. Then the respondent oil corporation/the 4<sup>th</sup> respondent addressed a letter dated 26.02.2004 to include the clause for making payment to the said legal heirs i.e., Mr.R.Prasad and Mr.R.Srinivas Rao sons of late Mr.R.Veeraiah at the rate of Rs.15,000/- per month in order to take care of the livelihood irrespective of profit/loss arising out of the distributorship income. Accordingly, the unofficial respondents agreed to transfer a sum of Rs.7,500/- each per month towards their maintenance. Thereafter the above said LPG distributorship of Bharat gas has been reconstituted by inducting the 6<sup>th</sup> respondent as partner with 49% share and the other partner i.e., the 5<sup>th</sup> respondent with 51% share with the consent and approval of the respondent oil corporation in March, 2004.

14. As agreed by the unofficial respondents, two maintenance accounts were opened by the time of the above said reconstitution itself in the names of Mr.R.Prasad and Mr.R.Srinivas Rao in March, 2004 vide SB account No.415714834 and SB account No.415714845 respectively in Indian Bank, Brodipet, Guntur showing the 7<sup>th</sup> respondent as the guardian. Since then, the unofficial respondents have been depositing the monthly maintenance amount of Rs.7,500/- each in the said accounts. The 7<sup>th</sup> respondent being the

guardian utilized the monthly maintenance amount deposited in the account of Mr.R.Prasad and looked after his needs till Mr.R.Prasad's demise on 14.12.2018. The bank statements were also filed in the above said P.O.P.No.160 of 2004 instituted by the petitioner and her husband. The unofficial respondents deposited the monthly maintenance amount of Rs.7,500/- to the account of Mr.R.Srinivas Rao as stated above till his demise on 30.05.2021. Later they have opened the SB account No.7097764009 in the name of the petitioner in the same Bank and they continued to deposit the monthly amount of Rs.7,500/- in the account of the petitioner till date. The bank permitted them to open the said accounts basing upon the registered Will dated 05.03.1999. Basing upon the GPA alleged to have been executed by Mr.R.Srinivas Rao and basing upon the fabricated and forged Will dated 12.10.2001, the petitioner herein filed a pauper suit in P.O.P No. 160 of 2004 on behalf of Mr.R.Srinivas Rao in the year 2004 which was later numbered as O.S.No.744 of 2012 on the file of principal senior civil judge court, Guntur for declaration of title with respect to the properties alleged to have been bequeathed to him under the registered Will dated 12.10.2001. The said suit is at the stage of arguments. It is true that the above said LPG distributorship was awarded to the above said person Mr.Rayapati Veeraiah under compassionate grounds and it does not come under any reserved category like physically handicapped quota, SC/ST, OBC etc. The petitioner approached this court after her husband died as he is no more to attend any medical examination before the medical board to prove his mental soundness.

15. The learned counsel appearing for the unofficial respondents submits that it is a civil dispute and the unofficial respondents are the sole legal heirs based on the above said will. The petitioner's late husband is mentally unfit and they are depositing Rs.7,500/- every month in the petitioner's bank account to take care of her needs.

**W.P.No.17458 of 2023:**

16. The learned Senior Counsel for the petitioner further submits that the petitioner is a resident of Guntur and she married Mr.Rayapati Srinivas Rao in the year 1994 out of her will and consent and their marriage was registered in accordance with law. The husband of the petitioner was physically disabled but capable and conscious of understanding the things and surrounding deeds and further he was capable to maintain himself independently and as such considering the fact that the petitioner who is mentally and physically healthy and capable of maintaining herself independently would be helpful to her husband in the course of his life, the elders with the consent of the petitioner performed the marriage with the said Mr.R.Srinivas Rao. As stated supra, the father in law of the petitioner had three children viz., Mr.R.Srinivas/ husband of the petitioner, Mr.R.Prasad and Smt.G.Rajyalakshmi/ the 5<sup>th</sup> respondent. During the lifetime of the father in law of the petitioner, he had executed a will dated 13.09.1996 bequeathing the gas agency and some other immovable properties in favour of the petitioner's husband and her brother in law. However, one Mr.Subba Rao, father of the 4<sup>th</sup> respondent stealthily removed

the said Will dated 13.09.1996 and created another Will dated 05.03.1999 wherein the father in law of the petitioner had bequeathed certain immovable properties to the sister in law of the petitioner. The said mischief of the father of the 4<sup>th</sup> respondent had come to the knowledge of the father in law of the petitioner and in supersession of the aforesaid Will created by the father of the 4<sup>th</sup> respondent, had executed another Will dated 12.10.2001 bequeathing certain immovable properties and gas agency in favour of the husband of the petitioner and her brother in law and the testator of the said Will has consciously not appointed any guardian to the husband of the petitioner as he was able to maintain himself with the help of the petitioner. Pursuant to the death of the father in law of the petitioner on 06.02.2002, the latest Will dated 12.10.2001 came into force by virtue of which the husband of the petitioner and the petitioner have been in joint possession and peaceful enjoyment of the said bequeathed properties. But as stated supra, the 4<sup>th</sup> and 5<sup>th</sup> respondents made several *mala fide* attempts to grab the properties which were bequeathed to the husband of the petitioner and her brother in law by virtue of the Will dated 12.10.2001 by showing the petitioner and her husband as mentally unsound. The petitioner and her husband were not aware of the 2<sup>nd</sup> reconstitution of the above said distributorship dated 06.03.2004 and they were not aware of the opening of the above said bank accounts in the name of the petitioner's husband and herself for depositing Rs.7,500/- per month by the 5<sup>th</sup> respondent herein and they were also ignorant of self proclaimed guardianship for the petitioner's husband by the 4<sup>th</sup> respondent in the 2<sup>nd</sup> case

under the above said forged and fabricated will dated 05.03.1999 purported to have been executed by the father in law of the petitioner. It came to light during the course of examination of the 4<sup>th</sup> respondent in O.S.No.744 of 2012 before the trial court to the utter shock and surprise of the petitioner that the 4<sup>th</sup> respondent reveled about the opening of the above said bank accounts for depositing the said amount as decided by them between the unofficial respondents and the respondent-oil corporation without therebeing any receival of the said amounts either by the petitioner's husband during his lifetime or by the petitioner till now. Then the petitioner got issued a legal notice to the respondent Bank dated 21.01.2023 for which the bank gave reply dated 14.02.2023 revealing the fact that the above said bank accounts were opened by the unofficial respondents appointing the 4<sup>th</sup> respondent as Power of Attorney holder for the petitioner's husband. The petitioner also addressed a letter to the respondent bank dated 04.05.2023 to share the details of the Savings Bank accounts in the name of the petitioner and in turn the 3<sup>rd</sup> respondent-bank vide its letter dated 04.05.2023 communicated that the Savings Bank account No.7097764009 in the name of the petitioner was opened on 11.10.2021 by the 4<sup>th</sup> respondent as the guardian and administrator of the petitioner to operate and maintain the account. Since the petitioner gave a complaint on 28.02.2023, the said account is put under "Freeze" category. Aggrieved by the said acts of the unofficial respondents, the respondent- Oil Corporation and the respondent bank, the petitioner filed

the above said two writ petitions seeking justice for the reconstitution of the above said distributorship and for the consequential reliefs.

17. The learned counsel for the respondent-bank relying upon the counter of the respondent Nos. 2 and 3 submits that the bank has no knowledge about the execution of the Will dated 12.10.2001 superseding the registered Will dated 05.03.1999 by the executant late Mr.R.Veeriah basing upon which the respondent bank opened the above said savings bank accounts in the name of the petitioner and her husband during his lifetime at the behest of the respondent No.4 since the said Will authorized him to act as their guardian/administrator. By following the bank procedure only, the above said accounts were opened. However, the respondent bank undertakes to abide by any of the directions that may be passed by this Hon'ble Court. Thus, all the counsels reiterated the above said submissions in the 2<sup>nd</sup> case also.

18. In view of the above said facts and circumstances and the rival submissions made, it is to be seen that there is no much dispute with regard to the facts and the events occurred as mentioned above.

However it is to be examined whether the petitioner is entitled for any relief in these writ petitions?

19. As stated supra, the distributorship was commissioned in the name and style of M/s.Venkataramana Enterprises, Guntur with Mr.Rayapati Veeraiah as the sole proprietor by entering into the distributor agreement between the respondent Oil Corporation and himself dated 27.05.1992. Admittedly, the

LPG Distributorship was awarded on compassionate grounds for taking care of his physically handicapped sons viz., Mr.R.Srinivas and Mr.R.Prasad by the Ministry of Petroleum and Natural Gas vide reference No. P-19015/04/92-IOC dated 21.01.1992. After a lapse of about five years in doing the business, the said Mr.R.Veeraiah submitted letter to the respondent-oil corporation dated 02.03.1997 seeking reconstitution of the distributorship by including his daughter Smt.G.Rajyalakshmi/ the 5<sup>th</sup> respondent. The said proposal was accepted by the respondent oil corporation vide letter dated 15.04.1997 and accordingly it was reconstituted by entering into distributorship agreement dated 21.05.1997 between the respondent oil corporation and late Mr.Rayapati Veeraiah and Smt.G.Rajyalakshmi. After few years, the said Mr.Rayapati Veeriaah passed away on 06.02.2002 leaving behind his two sons viz., Mr.R.Srinivas / the petitioner's husband, Mr.R.Prasad and his daughter Smt.G.Rajyalakshmi/ the 5<sup>th</sup> respondent who is already included in the above said reconstitution of the distributorship. The petitioner's husband and his brother made representation to the 4<sup>th</sup> respondent/ respondent oil corporation dated 15.03.2002 seeking for reconstitution of the above said distributorship by substituting them in the place of their father late Mr.R. Veeraiah. Whereas Smt.G.Rajyalakshmi/ the 5<sup>th</sup> respondent also submitted a representation to the 4<sup>th</sup> respondent/ respondent oil corporation dated 25.03.2003 seeking reconstitution of the above said distributorship to include her son Mr.G.Raghuram / the 6<sup>th</sup> respondent as one of the partners to the above said

partnership firm of distributorship in view of the death of her father by further stating that they would pay Rs.15,000/- per month to her brothers alleging that they are physically and mentally unsound and they cannot manage on their own except with the help of any family member / guardian. Hence, the respondent corporation requested the petitioner's husband and her brother in law to appear before the Medical Board on 16.06.2003 and 30.06.2003. It appears that Mr.R.Prasad appeared before the Medical Board on 16.06.2003 and the Medical Certificate was also issued with an opinion that he is suffering from severe mental incapacity who cannot earn his livelihood on his own and totally dependent on parents / guardian. And Mr.R.Srinivas / the petitioner's husband did not appear for the said examination even on 30.06.2003 due to some personal reasons seeking further time. Subsequently, the respondent Nos. 5 and 6 submitted a joint letter addressed to the 4<sup>th</sup> respondent/respondent oil corporation dated 20.02.2004 seeking reconstitution of the above said LPG Distributorship. Accordingly, the partnership deed dated 16.03.2004 was also executed by the respondent Nos. 5 and 6. Consequently, the above said distributorship was reconstituted by the respondent oil corporation executing the necessary agreement dated 06.03.2004 by inducting the respondent Nos. 5 and 6 as partners to the above said firm for the shares of 51% and 49% respectively. It is to be noted that no consent was obtained from the petitioner's husband and his brother for the said reconstitution of the distributorship.

20. Since the above said representations of the petitioner was not considered by the respondent oil corporation, the petitioner and her husband filed a pauper suit in O.P.No.160 of 2004 on 26.03.2004 which was subsequently numbered as O.S.No. 744 of 2012 on the file of Senior Civil Judge, Guntur seeking declaration of title and permanent injunction over the suit schedule properties covered under the Will dated 12.10.2001 by disputing the Will dated 05.03.1999 as forged and fabricated. It is submitted by the parties that the said suit is at the stage of arguments.

21. While so, the 7<sup>th</sup> respondent in the 1<sup>st</sup> case / the 4<sup>th</sup> respondent in the 2<sup>nd</sup> case filed I.A.No.1475 of 2005 in the above said P.O.P No. 160 of 2004 on the file of Senior Civil Judge, Guntur to direct the petitioner's husband Mr.R.Srinivas to appear before the Medical Board for examination which was dismissed as referred above. The trial court specifically observed that the respondents therein / petitioner's husband is speaking with jerks and halts in normal way and the guardian of the respondent therein / petitioner herein is speaking fluently and wordily. In which case it is not just and reasonable to refer them for Medical check up to assess their mental capacity that too on the petition filed by the opposite party against whom they filed a suit for declaration of title and permanent injunction. The said order was confirmed by the erstwhile High Court of Andhra Pradesh in C.R.P No.5352 of 2006 dated 01.03.2011 by dismissing the same. Even after dismissal of the above said I.A dated 20.04.2006, the petitioner herein made a representation to the respondent oil corporation dated 11.08.2006 seeking for reconstitution of the

distributorship and another representation was also made on 17.03.2007. Since there was no response, the petitioner and her husband made representations to the Ministry of Petroleum and Natural Gas on 05.09.2007 and 26.09.2007 for reconstitution of the above said LPG distributorship.

22. Having failed to succeed in the 1<sup>st</sup> attempt to refer the petitioner and her husband for the medical examination, the 7<sup>th</sup> respondent / 4<sup>th</sup> respondent in the 2<sup>nd</sup> case filed MHOP No.131 of 2013 on the file of Principal District Judge, Guntur to declare the petitioner and her husband as mentally unsound and the same was dismissed on merits by the said court on 13.08.2018 by observing as referred above. Since the petitioner and her husband are able to manage on their own and they filed independently the above said suit by filing the vakalath it would not require any demand of the guardian much specifically the 7<sup>th</sup> respondent herein who filed the said MHOP to appoint him as guardian for them when there are property disputes amongst themselves. Accordingly, the said MHOP was dismissed vide order dated 13.08.2018. As stated supra, the petitioner's husband's brother Mr.R.Prasad passed away on 14.12.2018 and the petitioner's husband passed away on 30.05.2021. On coming to know of the opening of the above said bank accounts behind the back of the petitioner and her husband, she addressed a letter to the respondent bank on 21.01.2023 informing the mischief played by the 6<sup>th</sup> respondent in opening the savings bank account Nos. 415714845 in the name of the petitioner's husband and SB account No.7097764009 in the name of the petitioner in the Indian Bank, Brodipet, Guntur Branch and the Fixed Deposit accounts bearing

Nos. . 6645563574 and 6645563570 which were opened in the name of the petitioner's husband by the unofficial respondents illegally without their knowledge. Then the respondent bank replied vide letter dated 14.02.2023 stating that they have opened the above said accounts and permitted the unofficial respondents to deposit and maintain the said accounts under the above said Will dated 05.03.1999 which was only shown to them by the unofficial respondents.

23. On consideration of the above said submissions of the petitioner, the respondent-bank and the unofficial respondents in the matter of opening of the above said accounts in the name of the petitioner and her husband, it is obvious that they have been done without their knowledge and consent in whose names the said accounts were opened. It appears that the bank solely relied upon the said Will dated 05.03.1999 and upon the submissions made by the unofficial respondents without therebeing any due verification made diligently that too when the petitioner and her husband are majors in whose names the above said accounts are sought to be opened in their bank. Had there been any diligent enquiry by the bank, it would have known the existence of property disputes between the petitioner, petitioner's husband and the unofficial respondents.

24. That apart, the petitioner also submitted a representation on 12.03.2023 to the respondent oil corporation seeking for reconstitution of the distributorship in her favour to include her in the above said distributorship agreement in the place of her late husband representing the share of her late

father in law Mr.Raypati Veeraiah. For which the respondent oil corporation through the 4<sup>th</sup> respondent issued the impugned letter dated 30.03.2023 informing that Smt.G.Rajyalakshmi and Mr.G.Raghuram i.e., the respondent Nos. 5 and 6 herein are the authorized signatories of the M/s.Venkataramana Enterprises, Guntur with LPG distribution agency code No.661837 and as per the reconstitution process, the petitioner is requested to put up the joint application along with the existing partners to proceed further in the matter. Aggrieved by the same, the 1<sup>st</sup> writ petition was filed.

25. As contended by the respondent counsels, there is no delay and latches on the part of the petitioner in filing these writ petitions since, the reconstitution of the above said distributorship can be done at any time, at any stage depending upon the necessity and change of circumstances as explained by the individuals who seek for such reconstitution. The pendency of the above said suits and the other legal proceedings will not come in the way of the respondent oil corporation to consider the representation of the above said LPG distributorship. When the petitioner and her husband approached the respondent oil corporation pursuant to the orders passed by the Senior Civil Judge court, Guntur dated 20.04.2006 and the orders passed by the Principal District Judge Court, Guntur in MHOP No.131 of 2013 dated 13.08.2018, the respondent oil corporation ought to have considered by following the procedure as contemplated in the brochure of the BPCL in the matter of selection of BP Gas Distributors. As per para 4.5 of the said brochure relating to the selection of the BP Gas distributors deals with disqualification with

regard to the totally paralyzed, mentally unsound and totally blind persons who are not eligible for the above said distributorship. But here is a case, the above said distributorship was originally given to late Mr.Rayapati Veeraiah on compassionate grounds as his two sons were physically disabled but not falling under the said categories of disqualification.

26. The above said facts and circumstances and the orders passed by the concerned courts as stated above, establish that the petitioner's husband was only physically disabled and the petitioner is able to act as a guardian for her late husband during his lifetime even by pursuing with the various authorities for the assertion of their rights. The relevant Guidelines for the Reconstitution of LPG Distributorship 2022 with effect from 27.05.2022 reads as under:

**“RECONSTITUTION OF COMMISSIONED DISTRIBUTORSHIP**

3.1....

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**3.9.** In cases of death of the all partners, reconstitution may be made in favour of the legal heir(s) / family member(s) with the consent of legal heir(s). In such case, induction of outside partner(s) will also be permitted with the consent of legal heir(s)/ family member(s). However the maximum share of outside Incoming partner(s) will be restricted up to 49%. In cases of death of the all partners, if there is no eligible legal heir(s)/family member(s)/ nominee(s) of the Partner(s) or legal heir(s)/family member(s)/ nominee(s) of the Partner(s) express unwillingness, the distributorship shall be terminated.

**3.10.** While inducting partner(s), if the proprietor/partner(s) is not in a position to give consent due to his/her physical condition and has also not provided any nomination, then consent of the members of the family unit and married children of such proprietor/partner(s) would be required before reconstitution. Upon reconstitution, the distributorship should furnish appropriate indemnity bond indemnifying the OMC against any claim/damage of whatsoever nature raised by any person/entity relating to reconstitution done by OMC basis the said consent.

**3.11.** Dispute in case of Induction of nominated person(s)/legal heir(s)/ family member(s): In case of any dispute with regard to the induction of nominated person(s)/legal heir(s)/ family member(s) amongst the surviving/existing partners, then a maximum period of 6 (six) months from the date the OMC receives intimation of the death/incapacitation resulting in total and permanent disability (which will disable the proprietor/ partner to work or follow any occupation or profession) of Proprietor/partner(s) may be given to the parties to settle the dispute amongst themselves. During the dispute period, the distributorship may be operated by the partner(s) and nominated person(s)/legal heirs(s). If the same is not acceptable to the distributorship, then the distributorship may be placed under suspension. Another opportunity will be granted for a further a period of six months, in case if the dispute is not resolved in this extended period the LPG Distributorship will be terminated.

**3.12.** In cases where there is dispute in share out: In case of dispute on share out between legal heirs of deceased, the share of the deceased will be equally divided between all the willing incoming legal heirs. However, in this case the willing legal heirs

to be inducted in the distributorship will have to indemnify the OMC against any claims or demands which may be made in the future.

### **3.13...**

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### **3.17. General Conditions of Reconstitution**

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#### **3.17.5. Nominated person(s)/Legal Heir(s) not responding:**

In the event of death or incapacitation resulting in total and permanent disability (which will disable the proprietor/ partner to work or follow any occupation or profession) of the Proprietor or Partner(s) of the distributorship firm, if the person(s) nominated by the deceased/incapacitated Proprietor/Partner(s) do not express his/her/their willingness to join the distributorship, a specific time period of 6 (six) months from the date the OMC receives intimation of the death/such incapacitation of Proprietor/partner(s) shall be given to them for taking decision. Thereafter it will be construed that the nominated person(s) is/are unwilling to join the distributorship, and then the firm can be reconstituted with the other legal heirs or the family members of the deceased/incapacitated proprietor/partner(s). If there are no other legal heir(s) or the known legal heirs and also the family members are also not responding, then such partnership firm shall be reconstituted with the surviving partner(s); in case of proprietorship, the, distributorship shall be terminated. The sequence of preference to be followed for induction of new proprietor/partner should be (i) the nominated person(s); (ii) the "legal heirs; (iii) the family members(s).

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#### **4. TIMELINES FOR DISPOSAL OF APPLICATIONS:**

All proposals should be disposed of within 75 days of receipt of complete proposals. Reasons for delay, if any, will have to be recorded at each stage. Indane DO/Territory/Regional Office in-charge, LPG Head of State /Regional Head/Zonal head of IOC/BPC/HPC, as applicable, will periodically review and furnish MIS giving details of cases cleared and pending beyond allowed timelines with reasons for delay and plan for disposal.

State LPG Head/ Regional Head /Zonal Head of IOC/BPC/HPC, as applicable, will also periodically review the progress and status of cases pending at different stages and take corrective action to ensure at the earliest. Under no circumstances, any proposal should remain pending with Corporation for more than 75 days.

#### **5. GRIEVANCE REDRESSAL:**

In case of any grievance in the matter of reconstitution, the applicant will submit his/her petition to the LPG Head of State/Regional Head/Zonal Head of IOC/BPC/HPC, as applicable, who will have the grievance investigated and dispose the case within a period of one month's time from the date of receipt of grievance.”

27. From the reading of the above said guidelines, it is clear that the above said procedure was not followed by the respondent-Oil Corporation in the matter of consideration of the above said representations of the petitioner and her husband during his lifetime. The ultimate representation of the petitioner dated 12.03.2023 was replied by the respondent-Oil Corporation with the impugned letter dated 30.03.2023 which shows that it is pending for

consideration but insisted upon the petitioner to submit the joint application along with the unofficial respondents / existing partners which is discriminatory and not tenable as there are civil disputes pending between the petitioner and the unofficial respondents and the endeavour of the latter is that to exclude the petitioner from the above said distributorship. When the earlier reconstitution of distributorship was made dated 06.03.2004, there was no such insistence to make any joint application by the unofficial respondents along with the petitioner and her husband in its letter. As stated above, since the representation of the petitioner dated 12.03.2023 was replied by the respondent-Oil Corporation through the impugned letter dated 30.03.2023, no delay and laches in filing these writ petitions can be attributed to the petitioner and the decision relied upon by the learned Standing counsel for the respondent-Oil Corporation in the Civil Appeal Nos. 5027 of 2024 of the Hon'ble Supreme Court of India dated 18.04.2024 at para Nos. 9 and 10 cannot be made applicable to the facts and circumstances of these cases.

28. For the aforesaid reasons, the impugned letter dated 30.03.2023 to the above said extent is set aside and the respondent-Oil Corporation is directed to reconstitute the above said LPG Distributorship with the Agency Code No.661837 by considering / treating the petitioner as partner of the above said firm with 51% share as the legal representative of her deceased husband and the deceased father in law by adjusting the respondent Nos. 5 and 6 together for 49% share only in the above said firm. The said exercise shall be completed by the respondent-Oil Corporation by complying with all the

formalities involving the petitioner and the unofficial respondents within the period of six(6) weeks from the date of receipt of this order. Similarly, the respondent-Bank is directed to allow the petitioner to operate and maintain the above said accounts standing in the name of the petitioner and her husband in their bank permitting all the withdrawals and continuation and closure of the said accounts at her choice. The unofficial respondents are directed to deposit the share of the income of the petitioner to the credit of her account in any bank as required by the petitioner every month henceforth pursuant to the above said reconstitution of the distributorship with the petitioner and the unofficial respondent Nos. 5 and 6 as directed above. However, the said reconstitution of the above said distributorship will be subject to outcome of the above said pending suits and the other proceedings if any subject to the relevancy and the respondent-Oil Corporation can act upon accordingly.

29. Accordingly, the Writ Petitions are disposed off. There shall be no order as to costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

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**JUSTICE B KRISHNA MOHAN**

18.06.2024.

UPS