

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10252 OF 2014

M/s. Indian Oil Corporation Limited

.. Petitioner

Versus

Hindustan Trading Corporation, Kolhapur

.. Respondent

**Mr. Sunil Gangan a/w Mr. Jayesh Mestry i/by RMG Law Associates,
for the Petitioner.**

Mr. A. B. Borkar, for the Respondent.

CORAM : R.M. SAVANT, J.

DATE : 10th SEPTEMBER, 2015

PC.

1. The order dated 07.11.2014 passed by the Learned Adhoc District Judge-5, Kolhapur rejecting the application Exh.11 for stay pending the Appeal is taken exception to by way of the above Petition. It is an undisputed position that the land in question on which the petrol outlet of the Petitioner i.e. Indian Oil Corporation was situated is taken possession of by the Decree Holder i.e. Respondent herein pursuant to the execution proceedings which were filed. The Learned Counsel appearing on behalf of the Petitioner sought to question the manner in which possession was taken by the Respondent Decree Holder. It is required to be noted that the dealer of the Petitioner i.e. one M/s. Autocare who was the

Petitioner in the companion Petition had given two undertakings to the Trial Court of removing itself from the premises after exhausting balance stock of petrol, diesel and after removing the machinery. By an order passed today, the Petition by the said dealer being Writ Petition (Stamp) No.30968 of 2014 has been disposed of recording the statement made on behalf of the said dealer that the existing stock has been exhausted and now what remains is only some office material. In the light of the fact that the possession has already been taken over, in the event the Petitioner succeeds in Appeal, it can apply for restitution of possession if it deems appropriate. With the aforesaid observations, the above Writ Petition is disposed of.

2. The Learned Counsel for the Petitioner prays for continuation of the order of status-quo dated 07.11.2014 passed in the above Petition. The said order of status-quo has not been continued thereafter on the subsequent dates on which the above Petition was listed. In view of the fact that possession has already been taken and since the Petitioner can apply for restitution in the event it succeeds in the Appeal, the said prayer is rejected.

[R.M. SAVANT, J]

Certified to be true and correct copy of the original signed order.