

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

915 WRIT PETITION NO.4178 OF 2017

INDIAN OIL CORPORATION LTD THROUGH ITS MANAGER
MEHEDI HASAN
VERSUS
PANJARPOL SANSTHA JALGAON THROUGH ITS PRESIDENT
AND OTHERS

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Advocate for Petitioner : Mr. Bhandari Anand P.
Advocate for Respondent Nos.5,6,8,9,11,14,15 : Mr. Wani
Girish V.

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CORAM : V. K. JADHAV, J.
DATE : 23.02.2021

PER COURT :-

1. Heard both the sides.
2. It appears that in the pending execution, the petitioner-original J.D. has filed an application Exh.63 with a specific prayer that there is no legally executable decree exists on record in Regular Civil Suit No.256 of 2003. It is to be mentioned here that by order dated 20.04.2015, the learned District Judge No.4, Jalgaon in Misc. Civil Appeal No.56 of 2006 has allowed the appeal, quashed and set aside the ex-parte decree passed in Regular Civil Suit No.256 of 2003 with

the directions that the parties shall appear before 2nd Joint Civil Judge Junior Division, Jalgaon on 30.04.2015 and to co-operate the Trial Court for early disposal of the suit. It appears that by order dated 08.06.2015, below Exh.1 in Regular Civil Suit No.256 of 2003, the learned 2nd Joint Civil Judge Junior Division, Jalgaon since the petitioner-original defendant has failed to comply with the order directing it to remain present before the Trial Court on 30.04.2014, the learned Judge of the Trial Court has restored the earlier decree, which is set aside by the District Court. Being aggrieved by the same, the petitioner herein has preferred Civil M.A. No.172 of 2016 before the District Court and the said appeal is pending.

3. Meanwhile, the respondent-decree holder filed the execution bearing Regular Darkhast No.284 of 2004 wherein, the petitioner has filed the application Exh.63 as referred above with a specific prayer that there is no legally executable decree exists. In the same application Exh.63, the petitioner has also prayed for restoration of the possession.

4. It appears that only after disposal of the said Civil M.A. No.172 of 2016 by the District Court, the effective orders about

restoration of possession so also as to whether the decree passed by the Trial Court dated 08.06.2015, below Exh.1 in Regular Civil Suit No.256 of 2003 is legally enforceable or not.

5. In view of the same, the Writ Petition is disposed off. The petitioner would be at liberty to file an application with the similar prayer as per the application Exh.63 after his Civil M.A. No.172 of 2016 is decided by the District Court, in the event, if the appeal is allowed.

(V. K. JADHAV, J.)

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vmk/-