

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

WRIT PETITION NO.4705 OF 2021

Hindustan Petroleum Corporation Ltd. ...Petitioner
V/s.
Navjeevan Co-op. Housing Society Ltd. & Ors. ...Respondents

Mr. Pralhad Paranjape, Advocate for Petitioner.
Mr. Rajesh Jain a/w Mr. Rohit Jain i/b Legal Juris for Respondent No.1.

CORAM : A. S. GADKARI, J.
DATE : 26th AUGUST, 2021.
(Through Video Conferencing)

PC.:

1. By the present Petition, the Petitioner has impugned Order dated 12th August 2021, passed below Exhibit No.17 in Miscellaneous Appeal No.66 of 2020, by the Appellate Bench of Small Causes Court, at Mumbai, thereby permitting the Respondent No.1 herein to withdraw the amount deposited by the Petitioner on submitting an undertaking to re-deposit the same as and when called upon by the Court.
2. Heard Mr. Paranjape, learned Advocate for the Petitioner and Mr. Jain, learned Counsel for the Respondent No.1 i.e. the contesting Respondent.
3. During the course of arguments, this Court expressed its view that, in addition to submitting an undertaking by the Respondent No.1,

the Respondent No.1 will also furnish an Indemnity Bond before the Appellate Court for securing the said amount mentioned in Clause No.2 of operative part of impugned Order dated 12th August 2021.

4. Learned Advocate for the Petitioner, on instructions, from the concerned officer acceded the said suggestion made by this Court. Learned Advocate for the Respondent No.1 also acceded to the said suggestions.

In view thereof, Clause No.2 of operative part of impugned Order dated 12th August 2021, is modified to the extent that, the Respondent No.1 in addition to submitting an undertaking to re-deposit the said amount of Rs.3,30,89,710.00 as and when called upon by the Court, will also furnish an Indemnity Bond thereby, indemnifying the Petitioner for the said amount of Rs.3,30,89,710.00, at the time of its withdrawal in the Registry of the Appellate Court of Small Causes, at Mumbai.

In view of the said modification, nothing further survives in the Petition and is accordingly disposed off.

5. As the Respondent No.1 is permitted to withdraw the mesne profits deposited by the Petitioner company, the Appellate Bench of Small Causes Court at Mumbai, seized of Miscellaneous Appeal No.66 of 2020, is requested to expedite the hearing of the said Appeal and to make an endeavour to dispose of the same, within a period of one year from the

date of receipt of the present Order.

6. All the concerned to act on the basis of an authenticated copy of this Order.

(A. S. GADKARI, J.)