



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5186 OF 2023

Biharilal Dhannaram Trust, through its Managing Trustee L.M. Vishwakarma and others **.Vs.** General Manager, HPCL, Mumbai and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri M.S. Sharma, Advocate for petitioners.

CORAM : ANIL S. KILOR, J.

DATED : 24/08/2023

1. Heard.

2. The application filed by the respondent No.4 for adding him as party came to be allowed vide impugned order dated 17.06.2023. The order has been challenged on the ground that, the respondent No.4 is a dealer and there is no privity of contract between the petitioners/plaintiffs and the respondent No.4. Whereas, the contract is between the petitioners and the respondent – Hindustan Petroleum Corporation Limited (HPCL). It is further submitted that, in a suit filed by the petitioners for possession, damages/compensation and mesne profits, the respondent No.4 is not a necessary party.

3. It is further argued that, the application came to be filed at the stage of evidence and it will delay the proceeding.

4. The learned trial Court while allowing the application has categorically observed that there are letter correspondence between the HPCL and the respondent No.4 which shows that the respondent No.4 is in possession of the land in dispute. The Court has therefore held that since the plaintiffs are claiming possession, if decree is passed in favour of the plaintiffs it may adversely affects to the rights of the respondent No.4, if any.

5. The respondent No.4 may be in possession of the land in dispute as a dealer of the respondent – HPCL but once such fact of possession is *prima facie* proved, I do not find any error committed by the learned trial Court in adding the respondent No.4 as party.

6. In the circumstances, the writ petition is **disposed of** with direction to the trial Court to decide the suit expeditiously and in any case, within **six months** from today.

JUDGE