

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO.2637 OF 2023****IN****SECOND APPEAL NO.228 OF 2023**

Hushang Adi Vkil

....Appellant

Versus

Hindustan Petroleum Corporation Ltd.

....Respondent

....

Mr. Pradeep Thorat, a/w. Ms. Aditi Naikare, for Appellant.**Mr. Javeed Hussein**, a/w. Mr. Mubashir Hussein i/b. Hussein & Co. for Respondent

....

CORAM : SANDEEP V. MARNE, J.**DATED : 17 JANUARY 2024.****P.C. :**

Heard Mr. Thorat, the learned counsel appearing for Applicant as well as learned counsel appearing for Respondent.

2. Interim Application is filed seeking injunction against Respondent from creating third party rights or parting with possession of the suit property during pendency of the Appeal. Appeal has been admitted after formulating substantial questions of law by a separate order. It appears that the Respondent-Corporation has been in possession of the suit property for substantial period of time. The only limited relief that is sought in the present application is to restrain Respondent-Corporation from creating third party

rights or from parting with possession of the suit property during pendency of the Appeal. Mr. Hussein would express an apprehension that grant of such injunction may be interpreted to mean an absolute prohibition for the Respondent-Corporation to change the dealer or to take action against any dealer. In my view an order of injunction restraining the Respondent-Corporation from creating third party rights or from parting with possession cannot preclude the Respondent-Corporation from changing its dealer for taking any action against any of its dealers operating retail outlet at the suit property.

3. Accordingly during pendency of the Appeal there shall be order of injunction against Respondent-Corporation from creating any third party rights or from parting with possession of the suit property. However this order shall not preclude Respondent-Corporation from changing its dealer or from taking action against any of its dealers operating retail outlet at the suit property or from appointing any ad-hoc dealer under Holiday Scheme or taking any action against its dealer. Interim Application is accordingly disposed of.

SANDEEP V. MARNE, J.

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