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911 & 6_wp3435 & wp_2184_2026

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3435 OF 2026

Hindustan Petroleum Corporation
Limited

...Petitioner

V/s.

Rajpal Brothers Private Limited

...Respondent

WITH

WRIT PETITION NO.2184 OF 2026

Rajpal Brothers Private Limited

...Petitioner

V/s.

Hindustan Petroleum Corporation
Limited

...Respondent

Mr. Ashwin Shete with Ms. Vidhi Karia i/b. M/s. Jaykar Partners for the
Petitioner in WP/3435/2026 and for the Respondent in WP/2184/2026.

Mr. Aditya P. Shirke i/b. Mr. Shivraj Patne for the Respondent in
WP/3435/2026 and for the Petitioner in WP/2184/2026.

CORAM: SANDEEP V. MARNE, J.

DATED: 13 MARCH 2026.

P.C.:

1) These are cross Petitions filed by the Lessor and Lessee in respect
of demised land challenging order dated 11 December 2025 passed by the
Appellate Bench of the Small Causes Court in Revision Application

No.242 of 2025. By the impugned order, the Appellate Bench has set aside the order passed by the Trial Court and has directed the Lessee-Hindustan Petroleum Corporation Limited (**HPCL**) to deposit /pay an amount of Rs.1,00,000/- per month towards interim compensation/occupational charges from 17 October 2022 till final disposal of the suit.

2) I have heard Mr. Shete the learned counsel appearing for Lessee-HPCL and Mr. Shirke, the learned counsel appearing for Lessor and considered the submissions canvassed by them.

3) Plaintiff-Lessor has instituted T.E. & R Suit No.5 of 2024 for recovery of possession of the premises. The Suit is still pending. It appears that the rent in respect of the demised land is fixed at Rs.4,000/- per month vide Lease Agreement dated 12 March 1992. In the Plaintiff's Suit Plaintiff was advised to file an application for payment of interim compensation /rent at the rates indicated in the application which was in the range of Rs.10,79,567/- per month. The Plaintiff prayed for payment of arrears of Rs.3,07,67,659.50. The Trial Court rejected the Application by order dated 23 July 2025 holding *inter-alia* that the Plaintiff needs to establish at the end of the trial that occupation of premises by HPCL is unlawful. The Appellate Court however reversed the decision of the Trial Court and fixed the interim compensation @ of Rs.1,00,000/- with direction to pay the same from 17 October 2022.

4) Mr. Shirke complains that HPCL is enjoying possession of the demised premises despite expiry of the lease without payment of occupancy charges and all that is ensured by the Appellate Bench is that the HPCL pays at least a reasonable market rent during pendency of the

Suit. He submits that interim compensation fixed by the Appellate Court is not commensurate with the prevailing market rent in respect of the premises and that therefore the same deserves to be enhanced.

5) Under provision of Order XV-A of the Code of Civil Procedure, 1908 the Court entertaining a Suit for recovery of possession with or without arrears of rent or license fee, can direct deposit in the court of such amount as the court deems fit. The words 'such amount' used in Order XV-A refers to the amount of arrears of rent /license fee. Court exercising jurisdiction under Order 15-A cannot order payment or deposit of any such amount, which does not form part of rent or license fees. The Appellate Court has erroneously imported the concept of payment of interim compensation enunciated in the judgment of the Apex Court in *Atma Ram Properties (P) Ltd. Vs. M/s. Federal Motors Pvt. Ltd.*¹ *State of Maharashtra vs. Super Max International Pvt. Ltd.*², which contemplate Appellate Court's power to grant stay to the decree for ejectment subject to payment of interim compensation. In the present case, decree of ejectment is yet to be passed. It is yet to be established as to whether the possession of the demised land by HPCL is valid or unauthorised. Therefore, as of now the Trial Court can only exercise jurisdiction under order XV-A of the Court, which contemplates direction for deposit of arrears of rent/ license fee. The Trial Court does not have jurisdiction under any provisions of the Code to direct Defendant to pay interim compensation by taking into consideration the prevailing market rent payable in respect of demised premises. The Appellate Bench of the

1 (2005) 1 SCC 705

2 LAWS (SC 2009 852.

Small Causes Court has committed a serious jurisdictional error in passing the impugned order dated 11 December 2025.

6) Mr. Shirke has placed reliance on judgment of the Apex Court in *Indian Oil Corporation Limited V/s. Sudera Realty Private Limited*³ and *Bijay Kumar Manish Kumar HUF V/s. Ashwin Bhanulal Desai*⁴. Both the judgments do not deal with court's power to direct deposit of interim compensation during pendency of the Suit. In both the judgments, the enquiry essentially was about *mesne* profit. Once Plaintiff succeeds in the Suit and seeking a declaration that HPCL's possession is unlawful it can apply for determination of *mesne* profits. The judgments therefore do not have any application to the facts of the present case.

7) For the reasons discussed above, the impugned order is indefensible and liable to be set aside.

8) Order dated 11 December 2025 passed by the Appellate Bench of the Small Causes Court is accordingly, set aside. Writ Petition filed by the HPCL is allowed and **disposed of**. Since order dated 11 December 2025 itself is set aside, Writ Petition No.2184 of 2026 filed by the Lessor is rendered infructuous and the same is also **disposed of**.

9) At this stage, Mr. Shete submits that the HPCL has deposited the amount in the Court on a without prejudice basis. If that is the case, HPCL would be at liberty to apply to the Trial Court for withdrawal of the same.

[SANDEEP V. MARNE, J.]

3 (2023) 16 SCC 704

4 (2024) 8 SCC 668