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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 1850 OF 1998

The Gholwad Vividh Karyakari Seva  
Sahakari Society Ltd. And anr.

.... Petitioner

vs

M/s. Kantilal Jhasraj Shah and ors.

.... Respondents

Mr. R.S. Ghadage for the Petitioner

Mr. Pratap P. Mandlik i/by Mr. P. S. Dani, Senior Advocate for the  
Respondents 1 and 2.

Mr. S.D.Rayrikar, AGP for respondents 4 and 5.

**CORAM: ANOOP V. MOHTA, J.**

**DATE : February 02, 2015**

**P.C.:**

The Petitioners (the Society) have filed this petition and prayed to pass an appropriate order of summary eviction from the godown premises against Respondents 1 and 2 ( K. J. Shah and J. J. Shah, partners). Also sought police protection for the same apart from the compensation of Rs.1,000/- per month till the date of payment.

2 This Court on 8.9.1998 admitted the petition, but not granted any interim relief. In a reply filed by the Respondents dated 17.12.1998, a copy of judgment dated 30.12.1996 (exparte) placed on record whereby Respondents 1 and 2 have filed a Regular Civil Suit

and by order dated 30.12.1996, Civil Judge, Senior Division, Palghar, granted decree in their favour and thereby the Petitioners are restrained from dispossessing the Plaintiffs other than the due process of law. The statement is made by the Respondents that they are in possession of the premises till this date. There is nothing on record to show that the Petitioners have taken out any eviction proceedings in accordance with law to evict the Respondents. The prayer so made, in my view, just cannot be granted in the writ petition specifically of initiation of proceedings and/or order of eviction from the godown as prayed. The society and/or administrator and/or liquidator need to initiate the proceedings for eviction in accordance with law.

3           The learned counsel for the Respondents has also pointed out that even amalgamation order itself was set aside by a Division Bench of this Court. Therefore, also the Petition as filed need to be dismissed in the above background.

4           The writ petition is accordingly dismissed with liberty. Rule discharged. No costs.

**(ANOOP V. MOHTA, J.)**