

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 277 OF 2016**

Shri Sudhakar Sadashiv Sawant
and Ors

..Petitioners

Vs

Anita Anant Sawant and Anr.

.. Respondents

Dr. Suresh Mane, Advocate for Petitioners.
Mr. Sandeep S. Dhuri, Advocate for Respondent no.1.

CORAM : R.G.KETKAR,J.
DATE : 11/01/2016

PC:

1. Heard Dr.Suresh Mane, learned counsel for the petitioners and Mr.Sandeep Dhuri, learned counsel for respondent no.1 at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioners have challenged order dated 2.11.2015 passed by the learned trial Judge below Exhibit 218/D. By that order, the learned trial Judge rejected the application made by the petitioners objecting to issuance of warrant of possession on the ground that as decree holder-plaintiff was not occupying the suit premises, she cannot claim possession.
3. Mr.Dhuri submitted that the said issue is concluded right upto the Supreme Court. He submitted that the Apex Court, in terms, held that even if landlord is not in actual possession of the

suit premises and the suit premises are in occupation of tenant and if he is dispossessed without his consent, suit under section 6 of the Specific Relief Act, 1963 can be instituted by landlord and, therefore, the learned trial Judge has rightly rejected the application.

4. Dr. Mane, upon taking instructions from petitioner no.1 who is present in Court, states that the petitioners are in possession and nobody else is in possession. Statement made by Dr. Mane is accepted. Upon taking instructions, he further seeks permission to withdraw the petition.

5. On the motion made by Dr. Mane, Petition is allowed to be withdrawn and is dismissed as withdrawn. Order accordingly.

(R.G.KETKAR, J.)