

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 8345 OF 2016

Mrs.Basanti Fakirchand Kanojia & anr. ... Petitioners

v/s

State Bank of India & anr. ... Respondents

Mr.Surel Shah along with Ms.Gauri Shah for the petitioners.
Mr.Tushad Kooper along with Chetan Mhatre i/by Utangale & Co.
for Resp. No.1.

Coram: N.M. Jamdar, J.

Dated: 29 August 2016

P.C.:

Learned counsel for the Petitioners, on instructions from Petitioner No.2 – the son of Petitioner No.1, on behalf of himself and Petitioner No.1, at the outset states that the Petitioners will not press the challenge to the impugned order if six months' time is granted to vacate the premises. Learned counsel for the Respondents states that, for grant of time Respondents are not averse, however, shorter time be granted to the Petitioners.

2 Having considered the facts and circumstances and the fact that the Petitioners are currently residing in the premises and that the Petitioners are not pressing their challenge on merits, six months' time is granted to the Petitioners i.e. till 27 February 2017, on the

following conditions :

- (I) The Petitioners will file their undertaking/affidavit and the undertaking/affidavit of all adult members of the family residing with the Petitioners, if any, that the Petitioners will hand over vacant and peaceful possession of the suit property to the Respondents on 27 February 2017.
- (II) This undertaking/affidavit shall be filed in the Registry of this Court within three weeks from today. If the affidavit is not filed within the stipulated period as stated above, the Respondents shall be entitled to take possession of the suit property forthwith.
- (III) The undertaking/affidavit shall specify that the Defendants alone are in possession and they will not create any third party rights and will not part with possession.

3 The writ petition stands disposed of in above terms.

4 However, for the purpose of ensuing compliance, the petition shall be shown under the caption 'for Directions' on 28 February 2017.

(N. M. Jamdar, J.)