

JPP

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

CIVIL REVN. APPLICATION NO. 1080 OF 2014

Mahamad Ayyub Mahebubsab Shaikh and Ors. ... Applicants.

V/s.

Abdul Kadar Dadasaheb Nallamandu
(Since deceased through his legal heirs)

1a. Matin A. Kadar Nallamandu & Ors. ... Respondents.

Mr. P.B. Shah a/w. K.P. Shah for the Applicants.

Mr. Anirudha Valsangkar a/w. Pankaj Das for the Respondents.

CORAM : N.M. Jamdar, J.

01 December, 2016.

Oral Order :-

On 18 November 2016 following order was passed :-

“ The learned Counsel for the applicants after taking instructions from the Applicant No.4 states that if reasonable time is granted to vacate the premises, the Applicants will not pursue their challenge.

2. The learned Counsel for applicants seeks time to take necessary instructions from the other

applicants in that regard and also to enable the parties to have a discussion as regard reasonable time to vacate the premises. Stand over to 25 November 2016 'for directions'."

2. Thereafter, on 25 November 2016 the matter was adjourned till today to enable the learned Counsel for the Petitioner to get the requisite undertaking of the Petitioner and his family members. The learned Counsel for the Petitioner No.1 reiterates the request of granting time to vacate. The learned Counsel for the Applicants submitted that the Applicants are ready and willing to hand over one room from the possession of the Applicants to the Respondents within one month from today and for the other room in his possession, two years' time to vacate may be granted i.e. 1 December 2018. The learned Counsel for the Respondent submitted he is agreeable but that no further time be granted to the Applicants.

3. The learned Counsel for the Applicants has handed over the undertaking as well as the additional undertaking by the Applicant and his major sons sworn today. All the undertakings of the Applicants are taken on record and marked 'X' for identification. All the undertakings are accepted. Accordingly, by consent of parties, the Civil Revision Application is dismissed as not pressed. In spite of the dismissal of the Revision Application, the following arrangement is made by consent, as undertaken by the Applicants :-

(i) The Applicants will hand over the vacant and peaceful possession of one room to the Respondents on or before 2 January 2017. As regard the other room in question, the Applicants will hand over vacant and peaceful possession of the same on or before 1 December 2018 to the Respondents.

(ii) As undertaken by the Applicants, they will keep paying the damages to the Respondent – landlord on or before 10th of every month and they will not create any third party rights or part with possession and change the nature of the suit premises.

(iii) For the breach of the undertakings and for failure of the Applicants to hand over the possession of one room within period of one month as stipulated, the Respondents will be entitled to proceed to execute the decree.

3. The Civil Revision Application is disposed of in above terms.

(N.M. Jamdar, J.)