

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4240 OF 1995

Madhav Krishnaji Joshi & Ors. Petitioners
Vs.
Balkrishna Maniklal Kale & Ors. Respondents

None for the Petitioners

Mr. S.R. Agarkar i/by U.B. Nighot for the Respondents.

Coram : N.M. Jamdar, J.

Date : 8 May 2017

P.C.:

The petition is placed before the Special Vacation Court to take up the final hearing of the pending old matters.

2 None for the Petitioners. As rightly contended by the learned counsel for the Respondents, the absence of the Petitioners need not result in deferring the hearing of this petition in view of the detailed order dated 16 November 2016 as under :

“The matter has been repeatedly adjourned at the request of Petitioners. Even today request is made for accommodation. The learned counsel for Respondents has placed on record subsequent events that the premises have collapsed and

Petitioners are not residing in the said premises. The learned counsel for Petitioners states that the attempt was made to contact Petitioners but they are not traceable as on date. The learned counsel for Petitioners has no instructions from Petitioners nor there has been a recent contact from Petitioners. Therefore, the statement made on affidavit by Respondents that the premises have collapsed and Petitioners are not staying in the premises will have to be accepted. In these circumstances, there is no necessity to continue the interim relief as Petitioners no longer require such protection from eviction. Stand over to week commencing from 19 December 2016. The interim relief granted earlier stands vacated”.

3 After the interim relief has been so vacated, no efforts have been made by the Petitioners and no attempt was made to get the interim relief restored, however nor any Civil Application is filed. It is, therefore clear that the Petitioners are not interested in prosecuting this petition. The Writ Petition is accordingly disposed of. However since the Petitioners are not present, in case the cause of action survives., if an application for restoration is made within reasonable time, the Court may consider to restoring the petition.

(N.M. Jamdar, J.)