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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9016 OF 2017
WITH
CIVIL APPLICATION NO. 1888 OF 2017

Pinakin Bhailal Amin & Anr ...Petitioners

Versus

The Board of Trustees of the Port of Bombay, a ...Respondents
Statutory Corporation & Anr

Mr Mustafa Doctor, Senior Advocate, i/b Apte & Co., for the
Petitioners.

Mr UJ Makhija, with Ajai Fernandes, Sneha Pandey, i/b Motiwala &
Co., for the Respondents.

CORAM: G.S. PATEL, J
DATED: 8th November 2017

PC:-

1. The following order is passed by consent:

2. The petitioners will deliver possession of the property in question, i.e., RR No. 1371 at 15, Goa Street, Mody Bay Estate, Mumbai, described in Exhibit "A" to the plaint to the 1st respondent within three weeks from today.

3. This possession will be delivered on “as is where is” basis, it being understood that there exists on this plot a ground plus three floor structure with several tenanted premises in it. The structure is known as Amin House. One of the tenements in the Amin House is in possession of the petitioners and this is Shop No. 1. The petitioners will at the same time deliver vacant possession of only Shop No. 1 and will arrange to remove all their possessions from Shop No. 1 before possession is handed over.

4. This arrangement is on the basis that 1st respondent will not initiate proceedings in contempt or proceedings for default or for their failure to deliver vacant possession of Amin House. It is equally clarified that the 1st respondent will be at liberty to fully execute the decree that it has obtained against the petitioners in respect of the premises in question and proceed against the occupants accordingly as permissible in law including in execution. It stands to reason that in any execution proceedings the petitioners may have to be joined as parties but the present petitioners and 1st respondent are agreed that the petitioners are in no position to deliver vacant possession of the premises occupied by the third parties.

5. The petitioners undertake that they will on or before 30th November 2017 withdraw the appeal that has been filed by them against the decree of the Trial Court.

6. The writ petition is disposed of in these terms. There will be no order as to costs.

7. The civil application does not survive and is disposed of as infructuous.

(G. S. PATEL, J)