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

WRIT PETITION (STAMP) NO. 21783 OF 2017

Mr. Dilip Mulchand Sanghavi & Ors. .. Petitioners
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Shishir Joshi i/b Ms. Bhakti Jogal for the Petitioners.
Mr. S. D. Rayrikar, AGP for the Respondent-State.
Ms. Neha Bhide for Respondent Nos.2 & 3.

CORAM : A. S. GADKARI, J.
DATE : 11th AUGUST, 2017.

P. C. :

1. By the present petition under Article 227 of the Constitution of India, the petitioners have prayed that respondent Nos.2 and 3 be directed to follow due process of law before evicting the petitioners from the premises (suit premises) which is in their occupation.
2. The record indicates that respondent No.2 has undertaken redevelopment of the suit property wherein the shop premises of the petitioners are situated. It is the case of MHADA that by notice dated 15.12.2016 the petitioners were directed to vacate the premises on or before 11.01.2017. That, the said notice was duly served upon the petitioners, however, the petitioners did not vacate the suit premises. That, by subsequent notice dated 10.01.2017 the petitioners were further directed to vacate the premises within seven days from the date of receipt

of the said notice. It is the case of the petitioners that said notice dated 10.01.2017 has not been served upon them and without following due process of law respondent Nos.2 and 3 are inclined to evict the petitioners from the suit premises.

3. During the course of the hearing of the present petition, with the able assistance of the learned counsel for the petitioners and the learned counsel appearing for the respondent Nos.2 & 3, various probabilities to arrive at a via-media were undertaken by this Court. It appears from the record that except the petitioners all other occupants have vacated their premises and the development of the property has been started.

It is the case of respondent Nos.2 and 3 that, as the petitioners did not vacate premises, their premises/shops could not be demolished. It appears from record that respondent Nos.2 and 3 can start development of rest of the property without any other obstruction. It is submitted by the learned counsel for the petitioners that, taking into consideration the ensuing festival season upto Diwali, the petitioners will be deprived of from the income derived from the shops which they are running at the suit premises, which is the only source of their livelihood and therefore it is prayed that the petitioners may be permitted to occupy the said premises upto 27.10.2017.

4. In view thereof and in the interest of justice, the petitioners are permitted to occupy the premises upto 27.10.2017 on the following terms

and conditions:

The petitioners shall submit an undertaking in writing on or before 31.08.2017 to this Court incorporating that;

(i) on or before 27.10.2017 the petitioners shall vacate the shops/premises which are in their respective possession and shall hand over vacant and peaceful possession to respondent N.2 without any demur.

(ii) In the event, during the course of construction of the rest of the property, if any damage occurs to the premises of the petitioners, the petitioners will not claim any compensation from respondent No.2.

(iii) The petitioners shall unconditionally vacate the shop premises on or before 27.10.2017 and the petitioners will not claim any equity in the matter.

5. If the petitioners fail to adhere to the undertaking given to this Court as stated above, the Respondent Nos.2 and 3 will be at liberty to evict the petitioners and demolish the said premises anytime after 27.10.2017.

6. Petition is disposed off in the aforestated terms.

[A. S. GADKARI, J.]