

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

WRIT PETITION No. 6621 OF 2018

Maimuna Yusuf Khan & Ors. ...Petitioners

Versus

Munir Yusuf Khan & Ors. ...Respondents

.....

Mr.Ashish Gatagat a/w. Mr. Vishesh Kalra i/b.Mr.Ruturaj V. Bankar
for the Petitioners.

Mr.Abhishek Patil for Respondent No.1

Mr.P.M.Shah a/w. Mr.Dishang Shah and Mr. Miraj Bharapuria for
Respondent No.3.

.....

**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: JUNE 28, 2018**

P.C. :

1. Upon urgent mentioning, taken on Production Board.
2. This Petition invoking the Writ Jurisdiction of this Court under Article 227 of the Constitution of India is filed wherein the order dated 5th May, 2018 passed by the learned Judge, City Civil Court, Borivali Division at Dindoshi, (Goregaon) thereby disposing of Notice of Motion No. 3290 of 2017 in S.C.Suit No. 2638 of 2017 is challenged.

3. Respondent no.1/original plaintiff, who is a son of petitioner no.1/defendant no.1, has filed S.C. Suit No. 2638 of 2017 for partition and declaration in respect of the suit premises, which is a residential flat bearing No. B/15 situated at Nirman Building, Malad Friends CHS Ltd., Mamletdar Wadi Extension Road, Liberty Garden, Malad (West), Mumbai 400 064. After redevelopment, now the old flat is renumbered as Flat No. 602. At present, petitioner no.1/ defendant no.1 i.e., the mother is residing in a rental premises. She is old and unable to pay the rent, which is exorbitant for her. At the time of hearing of the Notice of Motion taken out by the plaintiff, the plaintiff and defendant nos. 1 and 2 shown readiness to take possession of the suit flat jointly. Respondent no.3/defendant no.6 i.e., builder/ developer has no objection to handover a joint possession of the suit flat to both the parties. This arrangement will be subject to outcome of S.C. Suit No. 2638 of 2017.

4. In view of the above submissions and considering the facts in the present case, I pass the following order :-

ORDER

Respondent no.1/ original plaintiff and petitioner nos. 1 and 2/defendant nos. 1 and 2 are allowed to take a joint possession of the suit flat from respondent no.3/defendant no. 6. Respondent no.3/defendant no.6 shall handover the possession and keys to all the parties. After taking joint possession of the suit flat, the parties shall keep three sets of keys with them and shall not create third party interest or transfer or disposes the suit property. Parties shall pay maintenance jointly to the society. This arrangement is subject to outcome of S.C. Suit No. 2638 of 2017.

5. With this, Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)