

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 7677 OF 2017****M/s.Damjee Punshee & Co. & Anr.****..... Petitioners****VERSUS****Dena Bank****..... Respondent**

Mr.K.N.Kandekar for the Petitioners.

Mr.Rajesh Sethia for the Respondent.

CORAM : R.D. DHANUKA, J.**DATE : 11th JULY, 2018****P.C.**

This petition is arising out of the order passed by the learned Estate Officer refusing to allow the application filed by the petitioners *inter alia* praying for stay of the proceedings which shall be filed by the respondent.

2. It is not in dispute that the civil revision application (332 of 2013) filed by the petitioners in this court arising out of the decree passed by the Small Causes Court, Appellate Bench. Civil revision application is admitted and stay of eviction is already passed.

3. Learned counsel appearing for the respondent however invited my attention to the order dated 1st July, 2015 passed by Shri M.S.Sonak J., clarifying that the interim order passed by this court shall not come into the way of the respondent no.1 without prejudice to their contentions in the present proceedings under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971, if they

choose so.

4. It is submitted by the learned counsel that in view of the liberty granted by this court, the respondent bank is entitled to proceed with the eviction proceedings filed under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 against the petitioners.

5. In view of the liberty granted by this court in paragraph (4) of the order dated 1st July, 2015, the respondent is permitted to proceed with the said eviction proceedings against the petitioners filed under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

6. However, since this court has granted stay of the eviction against the petitioners in the proceedings arising out of the Small Causes Court, Bombay, the final order and judgment, if any, passed by the estate officer in those proceedings against the petitioners shall not be executed without leave to this court in the Civil Revision Application No.332 of 2013 filed by the petitioners in this court.

7. Writ petition is disposed of in the aforesaid terms. No order as to costs.

[R.D. DHANUKA, J.]