

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

WRIT PETITION (ST) NO.19558 OF 2018

Shivkumar Sadasiv Kapse and Anr. .. Petitioners

V/s.

Authorized Officer, Bharati Sah. Bank Ltd.
(A Multistate Co-op. Bank) and Ors. .. Respondents

Mr.Manoj A. Patil i/b Mr.Y.B.Lengore for the Petitioners

Mr.Utkarsh Desai i/b Mr.Prashant Bhavake for the Respondent no.1

**CORAM: K.K. TATED &
SANDEEP K. SHINDE, JJ.**

DATED : SEPTEMBER 04, 2018

P.C. :

1 Heard the learned counsel for the parties.

2 By this petition under Article 226 of the Constitution of India, the Petitioners challenge the notice dated 04.07.2018 issued by Respondent no.3 calling upon the Petitioners to hand over vacant and peaceful possession of the property as described in the said notice for recovery of the bank dues.

3 After arguing for some time, when this court declined to

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entertain the present petition, the learned counsel for the Petitioners submits that Petitioners are ready and willing to repay the entire loan of the respondent bank on or before 28.02.2019. He also makes a statement that in case petitioner failed and neglected to repay the entire loan within stipulated time i.e. February 2019, petitioners undertake to hand over vacant and peaceful possession of the suit property to the Respondent no.1 on or before 08.03.2019. In that case, Petitioners have no objection in favour of Respondent bank to dispose of the said property and recover their dues. To that effect, advocate for the Petitioners tendered affidavit cum undertaking dated 04.09.2018 duly affirmed by Petitioner nos.1 and 2. Same is taken on record and marked 'X' for identification.

4 The learned counsel for the Petitioners submits that Petitioner no.1, Shri Shivkumar Sadashiv Kapse and Petitioner no.2, Shri Gajanan Sadashiv Kapse are present in court. Both the Petitioners entered into the witness box. They admit the contents of affidavit cum undertaking dated 04.09.2018 and also execution thereof. Hence, undertaking given by both the Petitioners in their affidavit cum undertaking is accepted.

5 In view of the undertaking given by the Petitioners, Respondent bank is restrained from taking any coercive action against the Petitioners till February, 2019. For this purpose, advocate for the Respondent bank also agreed.

6 In view of the submissions made by the learned counsel for the

Petitioners and the undertaking given by them, Petitioners are permitted to withdraw the present Writ Petition.

7 Writ Petition stands disposed of accordingly.

(SANDEEP K. SHINDE, J.)

(K.K. TATED, J.)