

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.767 OF 2017**

D. Abraham & Sons (P) Ltd. and ors.	...Petitioners
versus	
The Union of India	Respondent

Mr. S. Shamim along with Mr. Murtuza Slatewala i/b. Shamim and Co.,
advocates for the petitioners.
Mr. Suresh Kumar, advocate for the respondent.

**CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATE : 6th AUGUST, 2018.

P. C. :

Heard learned counsel appearing for the respective parties.

2. Admittedly, the premises in question are in possession of the petitioners. The petitioners claim to be the tenants. However, Mr. Suresh Kumar, learned counsel for the respondent, submitted that the petitioners are not the tenants but they are licensees. Admittedly, there is no dispute that the subject premises are in dilapidated condition. The respondent, accordingly, has given notices dated 4th April, 2016 and 14th September, 2016 to the petitioners to vacate the suit premises. The petitioners, thereafter, wrote a letter dated 20th June, 2016 to Sr. Section Engineer (Works), Wadibunder, Central Railway, Mumbai, for permission to repair the subject premises. Since no action is taken by the respondent, the petitioners have approached this Court invoking jurisdiction under Article 226 of the Constitution of India.

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3. Mr. Suresh Kumar, learned counsel on instructions of his client, submitted that the respondent want the possession of the subject premises for its own use and it intends to file proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. He further submitted that till the time the respondent follows due procedure of law, the petitioners can repair the subject premises at their own cost provided they should not claim the equity thereof and the same should not come in the way of respondent in the eviction proceedings under the said Act.

4. The learned counsel for the petitioners submits that if the petitioners are permitted to repair the subject premises, they will not claim equity thereof and, in the event, the respondent files eviction proceedings under the said Act, they will submit to the final orders that may be passed on the merits of the matter.

5. In the light of the above, the petition is allowed. The notices dated 4th April, 2016 and 14th September, 2016 are quashed and set-aside. The petitioners are permitted to carry repairs to the subject premises viz. Belvedere, Hill Road, Godown at Wadi Bunder, Mumbai – 400 010 at their own cost.

6. The writ petition stands disposed of.

[SMT.ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]