

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14495 OF 2018

Sevantilal Veerji Dedhiya and Ors. .. Petitioners

V/s.

State of Maharashtra and Ors. .. Respondents

None for the parties

CORAM: K.K. TATED &
N. J. JAMADAR, JJ.

DATED : DECEMBER 19, 2019
(IN CHAMBER AT 2.45 P.M.)

P.C. :

1 Heard.

2 Today the matter is placed on board for speaking to minutes of order dated February 25, 2019.

3 The date of the order is incorrectly typed, it should be '*February 25, 2019*' instead of 'February 25, 2018'.

4 Rest of the order remains as it is.

5 The original order shall stand corrected which reads thus:

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
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WRIT PETITION NO.14495 OF 2018

Sevantilal Veerji Dedhiya and Ors. .. Petitioners

V/s.

State of Maharashtra and Ors. .. Respondents

Mr.Vishal C. Ghosalkar for the Petitioners

Mr.A.P.Vanarase, A.G.P. for the Respondent nos.1 to 3

Mr.Hemant Ghadigaonkar for the Respondent nos.4 and 5

**CORAM: K.K. TATED &
N. J. JAMADAR, JJ.**

**DATED : FEBRUARY 25, 2019
(IN CHAMBER AT 2.45 P.M.)**

P.C. :

1 Heard.

2 Today the matter is placed on board for speaking to minutes of order dated 20.12.2018.

3 The learned counsel for the petitioner submits that in order dated 20.12.2018 the consent minutes of order are incorrectly typed.

4 Same be corrected.

5 Rest of the order remains as it is.

6 The original order shall stand corrected which reads thus:

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Mr.Vishal C. Ghosalkar for the Petitioners

Mr.A.P.Vanarase, A.G.P. for the Respondent nos.1 to 3

Mr.Hemant Ghadigaonkar for the Respondent nos.4 and 5

**CORAM: K.K. TATED &
N. J. JAMADAR, JJ.**

DATED : DECEMBER 20, 2018

P.C. :

1 Heard.

2 After hearing both the sides, both the sides submitted consent minutes of order dated 20.12.2018. Same is signed by the petitioners' advocate as well as Respondent nos.4 and 5's advocate. Same is taken on record and marked 'X' for identification. The said Consent Minutes of Order reads thus:

"CONSENT MINUTES OF ORDER"

1. *The Petitioners have challenged the communication of the Respondent no 4 dated 06.12.2018 informing the decision of the Respondent no 3 dated 27.11.2018 to take physical possession of their respective premises in their possession on 21st December 2018 in compliance of the order dated 27.02.2017 of Respondent no 2.*
2. *The Petitioners and the Respondent no 4 and 5 have agreed that, the Petitioners shall make an application with supporting documents raising objection to the attachment and possession of their respective premises under rule 107 (19) (1) of the MCS Rules 1961 before the Recovery officer ie the Respondent no 4 herein. Such application shall be filed by the Petitioners on or before 01st January 2019.*
3. *The Petitioners shall appear before the Recovery officer ie the Respondent no 4 herein on 04th January 2019 at 11;00 am in the office of the Recovery Officer.*
4. *Upon such application being made by the Petitioners the Respondent no 4 shall consider the objections/ documents submitted by the Petitioners and shall decided the said application on or before 31st January 2019 in accordance with law and on its own merits.*
5. *In the event of any adverse decision against the Petitioner passed by the Respondent no 4 Recovery Officer the same shall not be given effect for a period of two weeks from the date of communication of the said order to the Petitioners.*
6. *If the Petitioners fails to make such application/ appearance before the Recovery officer as provided in clause no 1 and 2 herein above then the order of Ld Magistrate through Respondent no 3 and 4 shall be executed against the Petitioners.*
7. *In the mean while the proposed action of the Ld Magistrate for taking physical possession of the*

respective properties of the Petitioners scheduled for 21st December 2018 shall be postponed till the order is passed by the Recovery officer under rule 107 (19) of the MCS Rules therein and for a period of two weeks thereafter from the date of communication of the said order at the postal address mentioned in the Petition, to enable the Petitioners to challenge the said order adverse if any.

8. The Recovery officer ie the Respondent no 4 and 5 are free to take symbolic possession of the properties of the Petitioners and actual physical possession of remaining properties belonging to the borrower as scheduled for 21st December 2018 as per order of the Ld Magistrate dated 27.02.2017 Exhibit "G" to the Petition and communication dated 27.11.2018 Exhibit "H" to the Petition.

9. All contentions of the parties are kept open.

10. The above writ petition stands disposed off with the above terms."

3 Writ Petition stands disposed of in above terms. No order as to costs.

Parties to act on authenticated copy of this order.

(N. J. JAMADAR, J)

(K.K. TATED, J.)