

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

WRIT PETITION NO. 8976 OF 2017

Smt.Mani Anthony Murgesh
(Since deceased) Through LR.

1. Francis Anthony Murgesh & Ors.

... Petitioners

Vs.

Maruti Pundalik Shelke

... Respondent

Mr.S.R. Ronghe for Petitioners.

Mr.Himanshu Kode for Respondent.

Mr.Francis Anthony Murgesh, Petitioner No.1 in-person is present.

CORAM : A.S. GADKARI, J.

DATE : 3rd March 2020.

PC. :

1] After hearing the learned counsel for the petitioners at length, when this Court expressed its disinclination to grant any relief, the learned counsel, on instructions from the petitioner No.1 who is personally present in the Court, seeks leave to withdraw the present Petition unconditionally with liberty to vacate the suit premises within a period of three months from today.

The petitioner No.1 through his Advocate made a categorical statement before this Court that, except the petitioners nobody else is in occupation of the suit premises till today and till the time they vacate and handover vacant and peaceful possession to the respondents of the suit premises, they will not create any third party right, title and/or interest in the suit premises. The said statement is accepted as an undertaking to this Court.

2] In view thereof, the petitioners are granted liberty to vacate the suit premises within a period of three months from today, subject to their filing usual undertaking and also incorporating the following :-

- (i) *That, the petitioners are in exclusive use and occupation of the suit premises mentioned in para No.1 of the Civil Suit No. 313 of 2001.*
- (ii) *That, apart from the petitioners, nobody else is in physical possession of the suit premises.*
- (iii) *The petitioners shall state names of all the adult members in the family who are occupying the suit premises along with them.*
- (iv) *The petitioner shall also file undertaking of all the adult members in their family stating that, they will not claim any equity or succession through the petitioners and will not cause any obstruction and/or hurdle in vacating the suit premises and/or executing the decree passed by the Trial Court.*

3] It is made clear that, if the petitioners failed to vacate and handover vacant and peaceful possession of the suit premises on or before 8th June 2020, the respondent will be at liberty to execute the decree. In such an event, the Trial Court will positively consider the application filed by the respondent for providing police protection at the time of execution of the decree.

4] Petition is dismissed as withdrawn with the aforesaid directions.

[A.S. GADKARI, J.]