

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

WRIT PETITION NO. 7739 OF 2022

Mr. Issardas Khemchand Athwani

Since deceased through his legal heirs

1. Mr. Bhagwan Ishwardas Athwani & Anr.

... Petitioners.

Vs

Mr. Kishan J. Khubchandani

Since deceased through his legal heirs

1A Mrs. Rosaline Kishan Khubchandani

& Ors.

.... Respondents.

Mr. Bhushan R. Mandlik for the Petitioners.

Mr. S. S. Panchpor i/b. Adv. Radhika S. Panchpor for the
Respondents

CORAM : NITIN W. SAMBRE, J.

DATED : 20th OCTOBER, 2022

P.C.:

1. After having heard the respective counsels at length, as this Court has not shown any indulgence, learned counsel for the petitioners, on instructions made a motion for withdrawal of the petition.

2. The petition stands dismissed as withdrawn.

3. A prayer is made by learned counsel for the petitioners that the petitioners be granted time of one year to surrender the possession of the suit property, which prayer is strenuously opposed by learned counsel for the respondents/decreed holders.

4. However, having regard to the settled possession of the petitioners as tenants in the suit premises for more than 30 years, it will be appropriate to grant time of six months i.e. by **30/04/2023** to surrender the possession of the suit property, subject to compliance of the following conditions:

(a) The petitioners shall furnish an affidavit thereby undertaking that physical possession of the property shall be handed over by the petitioners to the respondents/decreed holders, in any case by 30/04/2023.

(b) The Petitioners shall clear the entire arrears in any case by **20/11/2022** by depositing the same in the Executing Court and shall continue to deposit the monthly rent on or before 10th of each English calendar month.

(c) The petitioners shall maintain suit premises in good condition

(d) The Petitioners shall not create 3rd party interest or part with the possession to 3rd party.

5. As such, protection from execution of decree is extended till 30/04/2023 subject to furnishing the aforesaid undertaking in any case by 15/11/2022.