

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

**WRIT PETITION NO.6446 OF 2023**

Sanjay Marutirao Khamkar and Anr. .. Petitioners

Vs.

Sub-Divisional Officer cum Appellate Authority,  
Thane and Ors. .. Respondents

Ms. Sheetal Mhatre for the Petitioners.

Mr. V.M. Mali, AGP for Respondent Nos.1 to 3.

**CORAM : SUNIL B. SHUKRE &**  
**FIRDOSH P. POONIWALLA, JJ**

**DATE : 4<sup>TH</sup> OCTOBER, 2023.**

**P.C. :**

1. We have heard learned counsel for the petitioners and learned AGP for respondent nos.1 to 3-State.

2. We find that now there is a fresh cause of action accrued to the petitioners in view of the order dated 24<sup>th</sup> August 2023 passed by the Chief Judicial Magistrate, Thane in Domestic Violence proceedings, bearing PWDVA No.23/2021, thereby vacating the interim relief granted by him to respondent no.5 to continue to occupy the flat belonging to the petitioners, which was considered by the learned Chief Judicial Magistrate to be a shared household for respondent no.5. With this, the petitioners would have to approach respondent no.1 once again for passing an appropriate order on the basis of the fresh cause of action resulting from the order dated 24<sup>th</sup> August 2023.

3. We, therefore, grant liberty to the petitioners to file a fresh application before respondent no.1 for obtaining order of eviction of respondent no.5, in accordance with law, on the basis of the fresh cause of action provided by the order of 24<sup>th</sup> August 2023. The fresh application may be filed by the petitioners within a period of one week from the date of the order and if it is so filed, the same shall be decided in accordance with law, at the earliest, after giving due opportunity of hearing to all the affected persons, including respondent no.5, by the respondent no.1. The respondent no.1 shall accordingly decide finally the fresh application, at the earliest, as far as possible within a period of two weeks from the date of appearance of respondent no.5 before respondent no.1. Petitioners shall appear before respondent no.1 on 16<sup>th</sup> October 2023.

4. The petition is disposed of in the above terms.

[ FIRDOSH P. POONIWALLA, J. ]

[ SUNIL B. SHUKRE, J. ]