



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5310 OF 2025**

Oliver Anthony Miranda	...	Petitioner
versus		
Savio Miranda	...	Respondent

Mr. Nakul Jain with Mr. Pratik Amin, Mr. Pratik Poojary i/by Pratik Amin Associates, for Petitioner.
Mr. Pankaj Dwivedi, for Respondent.

**CORAM: N.J.JAMADAR, J.
DATE : 1 OCTOBER 2025**

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 7 August 2024 passed by the learned Judge, City Civil Court in Notice of Motion No.140 of 2019 in S.C.Suit No.965 of 2017, whereby the Notice of Motion taken out by the Defendant was partly allowed and the consent terms dated 11 April 2017 were set aside. Consequently, the suit came to be restored to its original number. The learned Judge, however, did not accede to the prayer of the Defendant to restore the status quo ante.
3. The Petitioner and the Respondent are brothers. In the suit instituted by the Respondent for perpetual injunction, consent terms were executed between the parties, on 11 April 2017. It was, inter alia, agreed that the defendant would handover possession of the first floor premises to the Plaintiff, and the Plaintiff would pay a sum of Rs.20 Lakhs to the Defendant

within a period of one year. The Plaintiff did not comply with the said stipulation to pay the sum of Rs.20 Lakhs to the Defendant. Hence, the Defendant took out the abovenumbered Notice of Motion.

4. Learned Counsel for the Petitioner submitted that since the Plaintiff did not comply with the part of his bargain and the consent terms were set aside by the learned Judge, the status quo ante ought to have been restored. Restoration of possession of the defendant was a necessary corollary of the setting aside of the decree as the principle of restitution came into play.

5. Learned Counsel for the Respondent – Plaintiff, on instructions of the Respondent, who is present before the Court, submits that, the Respondent – Plaintiff would handover possession of the first floor premises to the Defendant within a period of two months.

6. The statement is accepted as an undertaking to the Court.

7. In view of the aforesaid undertaking before the Court, the Petition stands disposed.

8. The Respondent Plaintiff shall deliver possession of the first floor premises to the Defendant on or before 1 December 2025.

9. The Petition be listed before the Court for reporting compliance, on 4 December 2025.

(N.J.JAMADAR, J.)