

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

WRIT PETITION NO. 1736 OF 2025

Yashwant Rajaram Jamdade and ors. ...Petitioners

Versus

Dnyaneshwar Shankar Gite and ors. ...Respondents

Mr. Vaibhav Gaikwad, a/w Pradnya Solanki, for the
petitioners.

CORAM: N. J. JAMADAR, J.
DATED: 26th MARCH, 2025

PC:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to an order dated 4th December, 2024 passed by the learned Civil Judge, whereby the application preferred by the decree-holder for re-issuing possession warrant came to be allowed.
3. Attention of the Court was invited to an order dated 11th August, 2022, whereby only symbolic possession of the shops in the possession of the petitioners, was ordered to be given to the decree-holder. An application for modification of the said order and delivery of actual physical possession was also

rejected by the Executing Court by an order dated 29th November, 2024.

4. Mr. Gaikwad, the learned Counsel for the petitioners, submitted that despite, earlier orders to deliver symbolic possession only, of the premises in the possession of the petitioners, by an order dated 4th December, 2024, the Executing Court directed that the clear and vacant possession of the premises in possession of the petitioners be delivered and also passed ancillary orders in relation to the execution of the decree in RD/6/2023.

5. *Prima facie* it appears that the Executing Court had initially ordered that only symbolic possession of the premises in possession of the petitioners be delivered in execution of the decree.

6. In these circumstances, an arguable question is raised.

7. Issue notice to respondent Nos.1 and 2(a) to 2(c), for final disposal, returnable on 23rd April, 2025.

8. In addition to notice through Court, the petitioners are at liberty to serve respondent Nos.1 and 2(a) to 2(c) by private service and file an affidavit of service.

9. In the meanwhile, though symbolic possession of the premises can be delivered in execution of the decree, the petitioners be not actually dispossessed of the premises.

[N. J. JAMADAR, J.]