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

WRIT PETITION NO.1867 OF 2014

Purandardas Vasudeo Shingre and Anr.	... Petitioners
Vs.	
The Pune Municipal Corporation and Ors.	... Respondents

**WITH
CIVIL APPLICATION NO.1011 OF 2014
IN
WRIT PETITION NO.1867 OF 2014**

Bhagwan Vasudev Shingre	... Applicant
Vs.	
Purandardas Vasudeo Shingre and Anr.	... Petitioners
Vs.	
The Pune Municipal Corporation and Ors.	... Respondents

Mr. R.D. Soni i/by M/s. Ram & Co., for the Petitioners.
Ms. Manjiri Sharad Parasnis, for Applicant /Intervenor in CA.
Mr. Rajdeep Suresh Khadapkar, for Respondent Nos.1 and 2.
Mr. V.S. Gokhale, AGP, for Respondent No.3.

**CORAM : A.S. OKA &
A.P. BHANGALE, JJ.**

DATE : 23rd MARCH, 2015

P.C.

. The learned counsel appearing for the Petitioners, on instructions, states that before proceeding with the work of construction, the first Petitioner will make an application to the Municipal Corporation for grant of permission in accordance with law. He states that the first Petitioner will proceed with the construction only

after permission is granted by the Municipal Corporation. The learned counsel appearing for the Applicant in CA No.1011 of 2014 submits that repair permission/ notice under Section 264(1) of the Maharashtra Municipal Corporation Act, 1949 was obtained by the first Petitioner by making an application in the name of his deceased father. She relies upon an application annexed to the Civil Application a copy of which is obtained by the Applicant under the Right to Information Act.

2. We have perused annexures to the Petition. We find that though in the proposal submitted by the first Petitioner, the name of the owner is shown as Shri V.M. Shingre, it appears that the first Petitioner filed an application in his capacity as the Karta of a Joint Family. The notice is on page 45 (Exhibit-G) to the Petition is a notice under Section 264(1) which is addressed to the first Petitioner.

3. The Applicant in the Civil Application appears to be the real brother of the Petitioner and there appears to be *inter se* dispute between them. As the first Petitioner has made statement that he will not carry out any construction without obtaining permission of the Municipal Corporation, we need not keep the Petition pending and the same is disposed of by passing the following order :-

ORDER

- (i) It will be open for the first Petitioner to make a fresh application to the Pune Municipal Corporation for grant of development permission. If such an application is made within a period of one month from today, the Municipal Corporation shall decide the same in accordance with law as expeditiously as possible and in any event within a period of two months from the date on which the application is made;
- (ii) Order passed on the application be communicated to the first Petitioner or to his licensed Architect;
- (iii) Till the date of communication of the order, ad-interim relief granted on 17th February, 2014 will continue to operate. If the order be adverse to the first Petitioner, ad-interim relief will continue to operate for a period of one month from the date on which the order is communicated to the first Petitioner or to his licensed Architect, whichever is earlier;
- (iv) We make it clear that the first Petitioner shall not be entitled to carry out any construction on the site in question without obtaining prior permission of the Municipal Corporation;

- (v) We make it clear that if the first Petitioner fails to apply for permission within a period of one month from today, the limited protection granted as above will not apply and on the expiry of a period of one month from today, the Municipal Corporation shall be entitled to take action on the basis of notice (Exhibits-'J' and 'J-1' to the Petition). All contentions of the Applicant in Civil Application No.1011 of 2014 are kept open;
- (vi) The Petition is disposed of on above terms;
- (vii) Civil Application is disposed of on above terms.

(A.P. BHANGALE, J)

(A.S. OKA, J)