

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10980 OF 2014

Ashwin I. Rele	..	Petitioner
vs.		
Dr. Ajit G. Phadke (deceased)		
Mrs. Meena A. Phadke & Ors.	..	Respondents

Mr. V. V. Ugle for Petitioner.

Mr. A. A. Sapre i/b. D. B. Sawant for Respondent Nos. 1(a) and 1(b).

CORAM : M. S. SONAK, J.
DATE : 17 AUGUST 2015

P.C. :-

- 1] Heard the learned counsel for the parties.
- 2] As per the affidavits filed on record, it does appear that the works within the purported scope of impugned orders has already been completed.
- 3] Mr. Ugle, the learned counsel for the petitioner however submits that there is no compliance with the orders impugned in this petition. He points out that the works were not carried out under the supervision of architect and in any case the works undertaken transgress the scope of the impugned orders.
- 4] Mr. Sapre, the learned counsel for the respondent nos. 1(a) and 1(b) on the other hand submits that the works have been undertaken and completed in accordance with the scope and import of the impugned orders and there is no breach whatsoever.

5] In this petition, it is not possible for this Court to decide whether the works undertaken and completed are within the scope of the directions contained in the impugned order. Therefore it will be appropriate if the petitioner is granted an opportunity to make appropriate application before the Trial Court pointing out that the alleged breaches, if any. If such an application is made, then the Trial Court to consider the same in accordance with law on its own merits.

6] It is made clear that this Court has not gone into the merits of the matter. Accordingly, the contentions of both the parties are left open for decision by the Trial Court.

7] This petition is disposed of with the aforesaid observations.

(M. S. SONAK, J.)