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

CIVIL REVN. APPLICATION NO. 282 OF 2014

M/s. Bhagwan Palav & Sons.

... Applicants.

V/s.

Shashikant Ganpatrao Bhosale.

... Respondent.

Mr. U.B. Nighot for the Applicants.

Ms. Manjiri Parasnis for the Respondent.

CORAM : N.M. Jamdar, J.

18 August, 2016.

Oral Order :-

The Applicant is aggrieved by the judgment and order passed by the Civil Judge, Junior Division, Pune dated 26 November 2013 below Exhibit 26 in Regular Darkhast No. 5 of 2005. The Respondents filed a Regular Civil Suit No. 1877 of 1991 in the Court of Civil Judge, Junior Division, Pune. In the Suit the Respondents prayed that the Petitioner should remove the garage which is constructed on the suit land. The suit was decreed on 28 November 2000 and the Petitioner was directed to remove the garage and other structures specified in the decree. In the Darkhast

proceedings, an Application below Exhibit 26 was filed by the Petitioner contending that one of the Plaintiffs have withdrawn his claim against the Petitioner and that the decree stands fully satisfied. The learned Civil Judge rejected the Application by the impugned order.

2. The learned Counsel for the Petitioner submitted that the garage was constructed with permission from the Municipal Corporation and therefore, it cannot be demolished. This submission cannot be accepted. The decree can be satisfied only by complying with the same i.e. by removing the garage. The executing court cannot go beyond the decree and entertain the challenge to the legality of the judgment and decree.

3. In the circumstances, no fault can be found that the order passed by the learned Civil Judge rejected the application as the issue could not have been gone into by the learned Civil Judge in these proceedings. Accordingly, the Civil Revision Application is rejected.

4. Considering the facts and circumstances of the case, ad-interim relief granted in this Revision Application will continue for period of four weeks from today.

(N.M. Jamdar, J.)