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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.176 OF 2016
IN
SECOND APPEAL NO.66 OF 2003

Rajendra Sahakari Gruh Nirman Sanstha Maryadit ...Applicant

IN THE MATTER BETWEEN :

Madhavrao R. More, since deceased
through His L.Rs. - Milind M. More & Ors. ...Appellants

V/s.

Rajendra Sahakari Gruh Nirman Sanstha Maryadit ...Respondent

Mr.Rahul Walvekar for the Applicant in the Civil Application and
Respondent No.1 in S.A. No.66 of 2003.

Mr.Chetan Patil for the Original Appellant Nos.1 and 2.

CORAM : R.D. DHANUKA, J.

DATE : 16TH SEPTEMBER, 2016.

P.C. :-

1. By this civil application the applicant seeks permission to construct the boundary walls or barbed wire fence around the suit plot at their own costs.

2. Learned counsel appearing for the appellant nos.1 and 2 invited my attention to the prayers sought by the applicant (original plaintiff) in Special Civil Suit No.165 of 1984 in which the plaintiff had asked for specific performance of the suit property and for possession

and also invited my attention to the order dated 7th January, 2004 passed by this Court in Civil Application No.77 of 2003 in the second appeal filed by the original appellants who are respondents to this civil application. He submits that by the said order, this Court has recorded that the appellants who are in possession of the suit property are restrained from creating any third party rights, title and interest or parting with the suit area or any part thereof until further orders. He submits that since the applicants in this civil application are not in possession of the suit property, the question of constructing any boundary wall or barbed wire fencing does not arise. He however, submits that the respondents will protect the suit property from any encroachment during the pendency of this second appeal. The statement made by the learned counsel for the respondents is accepted.

3. In view of the statement made by the respondents and in view of the observations made by this Court in Civil Application No.77 of 2003 and in Second Appeal No.66 of 2003, I am not inclined to grant any relief as prayed by the applicant in this civil application. The civil application is accordingly disposed of in aforesaid terms. No order as to costs.

(R.D. DHANUKA, J.)