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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 2150 OF 2017
IN
SECOND APPEAL NO. 317 OF 1998**

Dattatraya s/o Ganpatrao Tadvalkar
Age: 81 years, Occ: Pensioner,
R/o. Tuljapur, now residing at
Shashtri Nagar, Aurangabad
Tq. & Dist. Aurangabad

..APPLICANT

VERSUS

1. Vasant s/o Ambadasrao
Sindhphalkar,
Age: 85 years, Occ: Pensioner
(since dead)

2. Kishor s/o Vasantrao
Sindhphalkar,
Age: 63 years, Occ: Retired
employee, R/o. Near Pap Nash
Mandir, Tuljapur,
Tq. Tuljapur, Dist. Osmanabad

3. Pradeep s/o Vasantrao
Sindhphalkar,
Age: 60 years, Occ: Retired
employee,
R/o. As above.

..RESPONDENTS

Mr Prashant K. Deshmukh, Advocate for applicant;
Mr Satyajit S. Bora, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 9th JUNE, 2017

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ORAL ORDER :

In view of earlier orders directing to deposit and subject matter involved in the second appeal, it will be appropriate, in my opinion, to allow the application in terms of prayer clause (B).

2. So far as prayed clause (C) for vacation of interim relief is concerned, the parties are in agreement that existing structure has already demolished being dilapidated and what remained on the spot was open space.

3. The respondent-owner, in the aforesaid back ground, intend to carry out construction without prejudice to the rights of the parties involved in the present appeal.

4. The prayer appears to be reasonable.

5. The interim stay is modified to the extent that the respondent-owner is permitted to carry out

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construction in accordance with law and Building Control Regulations and shall not claim any equity in the matter of decision of present appeal on merits.

6. With above observations, civil application stands disposed of.

(N.W. SAMBRE, J.)

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