

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

**CIVIL APPLICATION NO.2042 OF 2016
IN
WRIT PETITION NO.7856 OF 2004**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.V.Y.Murudkar for the applicant

Mr.Navin Parekh i/b Mr.Hetal Patel for the Petitioner

**CORAM : K. K. TATED, J.
DATE : JULY 17, 2017**

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by respondents for fixing early date of hearing of Writ Petition No.7856 of 2004 and also for restraining the petitioner from carrying out any further construction, renovation, addition or alteration to the existing premises.
- 3 The learned counsel for the petitioner submits that after admission of the present petition, respondent started carrying out construction, renovation, addition and alteration in the suit structure. To that effect, he has placed on record photographs which are at Exhibit-B

collectively.

4 The learned counsel for the applicant submits that in respect of similarly situated structures, Division Bench of this court as well as Apex Court confirms the order passed by the Estate Officer. They executed those orders and possession is already taken by them. On the basis of these facts and submissions, counsel for the applicant submits that hearing of the present Writ Petition be expedited and till that time, petitioner may be restrained from carrying out any renovation, construction and / or alteration, addition in respect of the suit premises.

5 On the other hand, the learned counsel for the petitioner vehemently opposed the present Writ Petition. They filed Affidavit-in-Reply dated 19.11.2016.

6 The learned counsel for the petitioner submits that they denied the allegations made by the applicant in their Civil Application. She submits that neither they carried out any alteration or addition in the suit premises. In any case they have to maintain the same as the Writ Petition is already admitted. Therefore, there is no question of granting any injunction restraining them from carrying any addition or alteration in respect of the suit premises.

7 I have heard both the sides. Considering the Division Bench order of this court dated 8.4.2008

in group of Writ Petitions No.4292 of 2003, order dated 25.8.2011 in Writ Petition No.6746 of 2011 and the Apex Court order dated 6.5.2004 in Special Leave to Appeal (Civil) No.8932 of 2004, I am satisfied that the applicant has made out a case for allowing this Civil Application. Hence, following order is passed:

(A) Civil Application is allowed in terms of prayer clause (a) and (b) which reads thus:

“(a) that this Hon'ble Court may be pleased to expedite the hearing and disposal of the above Writ Petition as early as possible.

b) pending the hearing and final disposal of the Writ Petition, the Petitioners, their servants, agents, contractors and employees and/or any other person or persons claiming through them be restrained by an order and injunction of this Hon'ble Court from carrying out any further construction, renovation, addition or alteration to the existing premises.”

(B) Office is directed to place the Writ Petition for final hearing in the weekly board commencing from 28.8.2017.

(K.K.TATED, J.)