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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (St.) No. 18898 OF 2018

Bhalchandra Dasharath Vaity	...	Appellant
Vs.		
Municipal Corporation of Gr. Mumbai	...	Respondent

Mr. Deepak Chitnis I/b M/s. Dipak Chitnis & Co., for
the Appellant.

Mrs. M. R. Bhoir, for the Respondent No. 1.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 9, 2018

PC :-

1. The present appeal is directed against the order dated 27.6.2018 passed by the learned Judge of the Court below in notice of motion taken out in L.C. Suit No. 8137 of 2018 by which the court below has not granted ad-interim relief to the Appellant.

2. It is not in dispute that the Hon'ble Division Bench of this Court (Coram : A. S. Oka & P. N. Deshmukh, JJ.) on 18.1.2018 has passed the order in Writ Petition No. 13603 of

2017 and in the said order, the Division Bench has directed the Designated Officer of the concerned ward to visit the subject property with a view to ascertain whether any illegal construction has been carried out by Respondent Nos. 3 and 4, as alleged in the writ petition. Further directions were given by the Division Bench that if the Designated Officer finds that if illegal construction has been carried out, he shall immediately initiate action for demolition of illegal construction. Learned counsel for the Appellant has invited my attention to be observation of the Division Bench by which it made clear that demolition shall not be done without giving opportunity of being hearing to the concerned parties. Learned counsel for the Appellant submits that without giving opportunity of hearing to the present Appellant, the order of demolition is passed.

3. It is not in dispute that Writ Petition No. 13603 of 2017 in which the order dated 18.1.2018 is passed is still pending before the Division Bench. If the present Appellants are aggrieved by the communication issued by the Designated

Officer of not granting opportunity of hearing, they can approach the Division Bench and point out the said fact. Further filing of suit and obtain ad-interim orders pending the writ petition is a way to circumvent to the order passed by the Division Bench, which cannot be permitted in the eye of law. In that view of the matter, the order passed by the Court below is perfectly correct, legal and requires no interference by this Court. Appeal is therefore, dismissed.

4. Needless to state that pending civil application, if any, filed in the appeal shall also stand dismissed.

Sd/-
[V. M. DESHPANDE, J.]

Vinayak Halemath