

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO.118 OF 2018
WITH
CIVIL APPLICATION NO.157 OF 2019
IN
APPEAL FROM ORDER NO.118 OF 2018**

Nestor Construction Private Ltd. & Anr.

....Appellants

Vs.

Smt. Tehnaaz B. Master & Anr.

....Respondents

.....

Mr. Vishal Kanade a/w. Mr. M.P. Vora i/b. Pramodkumar & Co., for the Appellants.

Mr. P.S. Dani, Senior Advocate a/w. Mr. Surel Shah, Ms. Nita Solanki I/by. Kiran Jain & Co., for the Respondents.

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CORAM : S.C.GUPTE, J.

DATE : 23 SEPTEMBER, 2019

P.C. :

1. After the matter is heard at some length, it is agreed between learned counsel for the parties that the impugned order of the City Civil Court at Dindoshi, rejecting Notice of Motion No.1068 of 2017, may be quashed and set aside and the Notice of Motion be remanded

to the Trial Court for a fresh hearing in accordance with law. Accordingly, the impugned order dated 07.12.2017 is quashed and set aside and Notice of Motion No.1068 of 2017 is remanded to the City Civil Court, Dindoshi, for a fresh hearing in accordance with law. All rights and contentions of the parties on merits are kept open.

2. The City Civil Court, Dindoshi to decide the Notice of Motion independently and without being influenced by the fact that this Court has set aside its order rejecting the Notice of Motion.

3. It is clarified that the Defendant Nos.1 and 2 shall be free to take such further steps and produce such other documents to resist the Plaintiffs Notice of Motion as they may be advised. The Plaintiffs shall likewise have liberty to do so.

4. The City Civil Court, Dindoshi is requested to dispose of the matter as expeditiously as possibly and preferably within a period of three months from today. Accordingly, the appeal from order is allowed.

5. In view of the disposal of the appeal from order, the civil application taken out therein does not survive and the same is disposed of.

(S.C. GUPTE, J.)