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

**ARBITRATION APPEAL NO.38 OF 2018
WITH
CIVIL APPLICATION NO.30 OF 2017**

Upendra Kantilal Thanawala & Ors.	..Appellants
Vs.	
Shreeram Builders & Ors.	..Respondents

**WITH
ARBITRATION APPEAL NO.39 OF 2018
WITH
CIVIL APPLICATION NO.29 OF 2017**

Upendra Kantilal Thanawala & Ors.	..Appellants
Vs.	
Shreeram Builders & Ors.	..Respondents

Mr.Sanjay Jain with Mr.Amrut Joshi with Mr.Nakul Jain with Ms.Hema Chhabra i/b. M/s.Maniar Shrivastava Associates for Appellants.
Mr.P.K. Dhakephalkar, Senior Advocate, i/b. Mr.Amol Mhatre for Respondents.

CORAM : G.S. KULKARNI, J.

DATE : 26th JUNE, 2019

P.C.:

After these appeals were heard on the earlier occasion and considering the nature of the impugned judgment dated 29 March 2017 as passed by the learned Principal District Judge, Thane, Mr.Dhakephalkar, learned Senior Counsel for the respondents on instructions, submits that his client would not have any objection to consent for the impugned judgment to be set aside and the proceedings remanded to the Court of the Principal District Judge, Thane, for a fresh

adjudication of the Civil Miscellaneous Application No.35 of 2012. Mr.Jain, learned Counsel for the appellants, of course would appreciate the said fairness of the respondents.

2. Accordingly, by consent of the parties, the impugned judgment and order dated 29 March 2017 passed on Civil Miscellaneous Application No.35 of 2012 is set aside with a further direction that the parties be approach the learned Principal District Judge, Thane for the Civil Miscellaneous Application No.35 of 2012 to be decided afresh and on its merits.

3. As the proceedings before the learned District Judge are of the year 2012, it would be appropriate that the proceedings are disposed of as expeditiously as possible and preferably within a period of 6 months from today.

4. All contentions of the parties including on merits of the disputes are expressly kept open.

5. In the meantime, Mr.Dhakephalkar, learned Senior Counsel for the respondents, fairly submits that his clients would not take any steps to execute the award.

6. Refund of Court Fees as per rules.

7. Civil Application No.30 of 2017 and Civil Application No.29 of 2017 would not survive. They are accordingly disposed of.

[G.S. KULKARNI, J.]