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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1699 OF 2015

Shivaji @ Bhairu Keshav Kokate & Ors.	..Petitioners.
V/s.	
Hari Narayan Jadhav	..Respondent.

Mr.Suresh M.Kamble for the petitioners.

Mr.Abijit Adgule i/b. S.R.Gannbavale for respondent No.1.

CORAM : M.S.SONAK, J.

DATE : APRIL 12, 2019

P.C.:-

Heard Mr.Kamble, learned counsel for the petitioners and
Mr.Adgule, learned counsel for respondent No.1.

2. Challenge in the petition is to the order dated June 14,
2014 made by learned Appeal Court, the operative part of which reads
as follows:-

“1. Miscellaneous Civil Appeal No.188/2011 is allowed, as follows.

2. The order by learned trial Court in Reg. Civil Suit No.114/2011 is hereby set aside.

3. *The application is allowed as follows.*
4. *Defendants to maintain the status quo of construction as recorded in the measurement map filed by court commissioner dated 9-7-2013.*
5. *Defendants are restrained from carrying construction over the portions more than portion already constructed as per the map, till decision of the suit.*
6. *There is no order as to cost.*
7. *R and P be sent to learned Civil Judge, Jr.Dn. Vadgaon. ”*

3. In this matter, no interim relief appears to have been granted. Therefore, the situation as is reflected in the aforesaid operative portion of the impugned order dated June 14, 2014 is in operation since June 14, 2014. The suit is itself of the year 2011. Therefore, interest of justice will be met if the suit is ordered to be disposed of expeditiously.

4. At this stage, learned counsel for the petitioner states that the petitioners will be satisfied if a Court Commissioner is appointed to demarcate the boundaries of the petitioners' property and the suit property i.e. City Survey No.1433. If this is the position, the petitioners are at liberty to take out an application before the learned trial Court seeking appointment of a Court Commissioner. If such an application is taken out, there is no doubt, the learned trial Judge will dispose of the same as expeditiously as possible, no doubt, after giving opportunity of

hearing, to all the parties.

5. With the aforesaid observations, this petition is disposed of.

There shall be no order as to costs.

6. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)