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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO.3338 OF 2022

Smt. Sheela Mohan Mathrani

.... Petitioner

V/s.

Chandan Mohan Mathrani and Anr.

..... Respondents

Mr. Jaydeep Deo a/w Mr. Sanjay Gunjkar, Advocate for the Petitioner.

Mr. Vijay D. Patil i/by Mr. Yogesh V. Patil, Advocate for the Respondent No.1.

Mr. Nitin K. Khamgaonkar, Advocate for Respondent No.2.

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 24, 2022.

P.C.:

- 1) Heard.
- 2) This petition is filed by plaintiff who seeks prayer for declaration and injunction wherein the prayer for expeditious hearing of the application for appointment of Court Commissioner under Order 26 Rule 9 of Code of Procedure Code is deferred and directed to

be heard with an application moved by the Respondent – Defendant for permission to demolish the suit property. In view of the observations made in the impugned order that preferably the application of the petitioner for appointment of the Court Commissioner will be heard before or with the application for grant of permission to demolish the structure, I hardly see any reason or ground which warrants interference in exercise of extra-ordinary jurisdiction. That being so, no case for interference is made out. Petition is dismissed.

3) However, this will not preclude the Petitioner from producing the documents of structural audit of the suit property, etc. It shall equally be open to the Petitioner to apply to same Court if the orders of permission to demolish goes against the Petitioner.

[NITIN W. SAMBRE, J.]