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

**APPEAL FROM ORDER NO.448 OF 2022
WITH
INTERIM APPLICATION NO.2888 OF 2022**

M/s. Qaswa Constructions ..Appellant
vs.
Ashish Udayshankar Mishra and ors. ..Respondents

Mr. Amogh Singh a/w Ms. Dhanashree Gaikawaiwari a/w Mr.
Ayaz Bilawala i/b. Bilawala and Company for appellant.
Mr. Prathamesh Kamath a/w Mr. Vishnudutt Mishra i/b. Mr.
Dinesh G. Mishra for respondents.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 18, 2022.

P.C. :

1. Heard learned counsel for the parties.
2. The order under challenge is dated March 15, 2022 passed by the City Civil Court, Dindoshi allowing the Notice of Motion No.1154 of 2021 filed by the respondents thereby making the Notice of Motion absolute in terms of prayer clauses (a) and (b) which read thus :-

“(a) That this Hon’ble Court by temporary injunction may be pleased to restrain the Defendant by themselves, their servants and agents or any person claiming through Defendant from demolishing 22 structures owned and possessed by the Plaintiffs

situated at piece and parcel of land Survey No.392, Hissa No.2 bearing C.T.S. No.841 and 847 without following due process of law;

(b) That this Hon'ble Court by temporary injunction may be pleased to restrain the Defendant by themselves, their servants and agents or any person claiming through Defendant from entering/trespassing on to 22 structures owned and possessed by the Plaintiffs situated at piece and parcel of land Survey No.392, Hissa No.2 bearing C.T.S. No.841 and 847."

3. Considering the reliefs granted, I do not find any reason to interfere with the said order as what is done by the City Civil Court is allowing temporary injunction restraining the appellant from demolishing 22 structures without following due process of law. Learned counsel for the appellant submits that they are willing to proceed ahead with the development and consequent demolition of the structures after following due process of law.

4. Needless to mention that having regard to the operative order granted, if the appellant is to follow the due process of law, the findings of the trial Court which have been recorded in aid of the operative order obviously will not come in the way of the appellant taking action against the structures in accordance with law.

- 5.** Appeal From Order stands disposed of. No costs.
- 6.** In view of the disposal of the Appeal From Order, nothing survives for consideration in the Interim Application and the same stands disposed of accordingly.

(M. S. KARNIK, J.)