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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 1959 OF 2022**

SOMWAR SHANTARAM MUKADAM PETITIONER
AND ORS

V/s.

PREMNATH LAXMAN MUKADAM AND ORS RESPONDENTS

Mr. Aniket P. Ranade Advocate for the Petitioner
Mr. R. M. Haridas i/b Mr. Tushar Sonawane Advocate for
Respondents

**CORAM : NITIN W. SAMBRE, J.
DATE: APRIL 6, 2022.**

P.C.:

- 1) Petitioner-Defendant in para 18 of his written statement has already admitted that existing dilapidated structure was demolished being house no. 1459 on 03/07/2020. It was also admitted by him that plot in question was accordingly cleared by removing debris.
- 2) In the aforesaid background, claim of the Petitioner-Defendant that Court below committed an error in injuncting him from carrying out further construction on the Suit property needs to be appreciated.
- 3) Admittedly there is no sanction plan in favour of the Petitioner

granted by local planning authority. Petitioner is not the owner of the Suit property. He claims to have status of occupier of the same.

4) Though Mr. Ranade, learned counsel for the Petitioner has claimed that what is sought to be carried out by the Petitioner is, strengthening the existing structure to make it habitable, same cannot be accepted as said arguments are contrary to his own pleadings in para 18 of his written statement referred above.

5) Appellate Court was sensitive to the fact that property in relation to which Suit is brought into action has gone to the share of Respondent-Plaintiff which fact is not disputed by the Petitioner-Defendant. As such, Petitioner cannot claim that he has title to the Suit property. His right to the Suit property can be only that of permissive possessor/user which of course after demolition of structure continues unless he is evicted by following due process of law.

6) That being so, no case for interference is made out. Petition fails, stands dismissed.

[NITIN W. SAMBRE, J.]