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

WRIT PETITION 10198 OF 2019

Maruti Alya Shirodhonkar & anr. .Petitioners

Vs.

Alya Kathor Bhopi & ors. .Respondents

Mr. Drupad S. Patil a/w Mr. B. G. Ligade, Advocate, for the
Petitioners

Dr. Uday P. Warunjikar, Advocate, for the Respondents

CORAM : ROHIT B. DEO, J.

DATE : 18.07.2022

P. C.

. This Petition assails concurrent views of the
Courts below, holding the Plaintiffs to injunctive relief as
regards the construction which is being carried out.

2. While according to the Plaintiffs, the construction
is on the public road, according to the Defendants, the
construction is on CTS 1204 which is owned by them.

3. It would not be necessary to interfere with the
injunction order which is operating since 2017. While issuing
notice vide order dated 07.09.2021, this Court has recorded

thus :-

“ Heard the learned counsel for the Petitioners.

2. It is submitted by the learned counsel for the Petitioners that the Petitioners are restricting their claim for construction on Chalta No. 199 which according to the Petitioners is now converted to C.T.S.No. 1204. It appears that the Petitioners had obtained permission for construction from the Gram Panchayat in the year 2013. However, subsequently in the year 2014, the Gram Panchayat had written to the Petitioners to satisfy that the construction is not made by encroaching on the open space and to obtain the permission from the Competent Authority i. e. CIDCO. Admittedly, at present, there is no permission from CIDCO. Mr. Patil, the learned counsel for the Petitioners states that the Petitioners may be permitted to obtain fresh permission from the Competent Authority and subject to the Petitioners obtaining such permission, they may be granted liberty to move for modification of the order. This is the only limited prayer made on behalf of the Petitioners.

3. In that view of the matter, issue notice to the Respondent Nos. 1 to 6 who are the original Plaintiffs returnable on 28 September 2021. Notice to indicate that the Petition can be taken up for final disposal at the stage of admission.

4. Hamdast allowed. Private notice

by Registered Post AD/Email and all other permissible modes is allowed in addition to the regular mode. The Petitioners to file an affidavit of service on next date.”

4. The only change is that instead of CIDCO the Planning Authority is the Panvel Municipal Corporation.

5. While I am not inclined to interfere with the order impugned, the Petition is disposed of with liberty to the Petitioners to obtain fresh permission from the Planning Authority and subject to the Petitioners obtaining such permission, they are free to apply for modification of the injunction order.

6. If an Application seeking permission is preferred within the next two weeks, this Court expects the Panvel Municipal Corporation to decide the same within the next 30 days.

7. The Petition is disposed of.

(ROHIT B. DEO, J.)