

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

CIVIL APPLICATION NO.1653 OF 2013

IN

FIRST APPEAL NO.1074 OF 2005

Bhushan Kulkarni and Associates Pvt. Ltd.Applicant

Vs.

Dadhe Construction Pvt. Ltd.Respondent

Ms. Kanchan Phatak a/w. Mr. Nitin Deshpande for applicant.

Ms. Yashashree Munde i/b. Parinam Law Associates for respondent no.1.

Mr. Bhushan Kulkarni, Director of applicant present.

Mr. Vijay N. Dadhe, Director of respondent no.1 present.

**CORAM : K. R. SHRIRAM &
RAJESH S. PATIL, JJ.**

DATED : 10th FEBRUARY 2023

PC. :

1 Not on board. Upon mentioning taken on production board at 2.30 p.m.

2 Applicant has sought various reliefs in this application. In prayer clause – (b), leave of the Court is also sought to fence the property described in the Schedule annexed to the application at Exhibit F and to put a board in the said property. For the moment, applicant wants leave of the Court to fence the said property because people in nearby localities were throwing garbage in the property and there is also danger of encroachment.

3 Respondent no.1, who is a contesting respondent, has filed an affidavit through respondent no.2, who is its Managing Director affirmed on 10th November 2022 stating that it has no objection if the said property is

fenced by placing corrugated steel sheets of minimum 8 ft. height. Ms. Munde, on instructions from Mr. Vijay N. Dadhe, who is present in Court and who has filed the affidavit, states that the height could go upto 12 ft.

4 In view of the same, leave is granted to applicant to erect proper fencing by placing corrugated steel sheets of height between 8 to 12 ft. at its own cost and risk. Ms. Phatak, on instructions states that if any injury or harm is caused to any person or property, it would be at the sole risk of applicant and all its Directors. Ms. Phatak states that applicant will not claim any equities on this ground.

5 Application disposed.

(RAJESH S. PATIL, J.)

(K. R. SHRIRAM, J.)