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

WRIT PETITION NO.13966 OF 2023

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Vasant Balu Patil

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Rohit D. Joshi for the petitioner.

Mr. P.P. Pujari and Mr. C.D. Mali, AGP for respondent
Nos.1 to 3/State.

Mr. Jay Savla, Senior Advocate (through V.C.) with Ms.
Renuka Bahu & Ms. Sheela John i/by M.P. Savla & Co.
for respondent No.5.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 6, 2023

P.C.:

- 1.** The petitioner/original plaintiff is challenging orders passed by the Courts below rejecting application for injunction restraining defendant Nos.1 to 3 from demolishing construction which is subject matter of the suit.
- 2.** By the impugned order, the Appellate Court has recorded a categorical finding that the authority issuing impugned notice had no power to issue such notice. However, the Courts below rejected temporary injunction application filed by the petitioner.
- 3.** In the light of such scenario, it was expected that till the

Competent Authority under the applicable Act initiates action by issuing notice, the petitioner ought to have been protected. Hence, following order:

- a) The suit structure described in paragraph 1 of the plaint is protected till issuance of notice by the Competent Authority empowered to issue such notice;
- b) Such Authority is permitted to initiate action against the petitioner, provided due process of law as required under the relevant statute is followed;
- c) Once the Competent Authority under the appropriate Act issued notice, the petitioner is entitled to raise all defenses as are available to him in law.

4. With this clarification, the writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)