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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 494 OF 2024

Vaishnavi Construction through
its Partners ... Applicant
Versus

Vaishnavi Complex Cooperative
Housing Society Ltd. thr. Its Chairman ... Respondent

.....
Mr. Ganesh Bhujbal for Applicant

.....
CORAM : MILIND N. JADHAV, J.
DATED : 23rd SEPTEMBER, 2024

P.C. :-

1. Heard Mr. Bhujbal , learned Advocate appearing for the
Applicant/Defendant.

2. This Civil Revision Application is filed against the rejection
of order in Application filed below Order 7 Rule 11 of CPC. According to
Defendant, who is Applicant before me, Plaintiff Society sought a
declaratory relief against Defendant not to demolish the staircase of the
society building on the northern side and the main gate on the northern
side.

3. He would submit that the Defendant has undertaken
further construction in the society building of putting up additional
fourth and fifth floor in accordance with the due process of law. He
would submit that according to his instructions, there are two

staircases, one on the northern and the other on southern side. He would submit that rest of the reliefs prayed for by Plaintiff Society are consequential reliefs. He would submit that in view of the impugned order, rejecting the application below Order 7 Rule 11 and despite the Exhibit '5' Application being pending and having not yet decided by the Learned Trial Court, Plaintiff Society is not permitting Defendant to enter the society building.

4. In view of the above factual submissions made, the Society will have to be heard by this Court and only then the submissions of the Applicant can be appreciated. In that view of the matter, issue notice to Plaintiff Society, made returnable on 7th October, 2024. Humdast permitted.

5. In addition to Court's notice, Advocate for Applicant is directed to serve copy of CRA along with copy of this order on Respondent and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

6. After receiving notice, Respondent to file affidavit-in-reply on or before the next date, if so desired with an advance copy to Advocate for Applicant. Rejoinder if any shall be filed on or before

the next date.

7. Respondent is directed to remain present either by himself/themselves or through his/their Advocate on the next adjourned date. It is made clear that if Respondent remains absent despite service on the next adjourned date, this CRA shall be heard and disposed of at the stage of admission in the absence of the Respondent.

8. Stand over to 7th October, 2024.

(MILIND N. JADHAV, J.)