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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 878 OF 2014**

**WITH**

**CIVIL APPLICATION NO. 2307 OF 2014**

Navinchandra Mulchand Fofalia and others .. Appellants

Vs.

Shri Fetechand Naraidnas Vazirani and others .. Respondents

Mr. J.S.Kini i/b Mr.Suresh Dubey, Advocate for the appellants.

Mr. H.K.Vazirani, Advocate for Respondents No. 1 to 3.

**CORAM : R.G.KETKAR, J.**

**DATE : 28<sup>th</sup> July, 2014**

**P.C. :**

1. Heard Mr. J.S.Kini, learned Counsel for the appellants and

Mr.H.K.Vazirani, learned Counsel for the respondents No.1 to 3.

2. Mr.Kini submitted the respondents No.1 to 3 should not be permitted to carry out construction over the flats of appellants and that if they are permitted to carry out construction in plots No. A & B of plot No. 43, the same be made subject to the outcome of the First Appeal.

3. After arguing the matter for some time, Mr.Vazirani, upon taking instructions from respondent No.1 who is present in the Court, states that on or before 02/08/0014, he will file affidavit and serve copy in advance on the other side incorporating therein;

- i) that respondents No. 1 to 3 will carry out construction in plots No. A & B of Plot No. 43;
- ii) that they will not carry out any construction over the flats of the appellants;
- iii) that in case, the appellants ultimately succeed in the appeal, they will not claim any equity and demolish the construction that may be carried out at their costs;
- iv) that they will not create third party interests without leave of the Court. Before obtaining the leave, they will furnish details of the prospective purchasers.

4. List the appeal for admission on 04/08/2014.

**(R.G.KETKAR)**