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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8670 OF 2018

Mohammed Abdul Khaleq Abdul Razzak (Died) LRs PETITIONERS

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....

Mr. Hamzakhan I. Pathan, Advocate for the petitioners

Mr. P. N. Kutti, AGP for respondent - State

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 3rd AUGUST, 2018

ORDER :

1. Issue notice to respondents, returnable on 3rd September, 2018. Learned AGP waives service for respondents No. 1 and 3.
2. Learned advocate for the petitioners urges for interim relief stating that while basic premise on which the matter arises is about alleged encroachment caused by the petitioner over municipal road and such a plea has been specifically taken in the written statement. Despite that no such basic issue has been framed which would go to the root of the matter since same would have bearing on legality or otherwise of the construction carried out by the petitioners. He submits that such a request has been erroneously rejected on different considerations, which may not have any relevance to the request made under



application Exhibit-125. He submits that unless such an issue is framed, it would be highly improper or rather disastrous to go on with the suit.

3. *Ad interim* relief in terms of prayer clause “C” till returnable date. Petitioner shall deposit a sum of Rs.10,000/- in the trial court, to show his *bona fides*, within a period of two weeks from today.

4. In addition to court process, petitioners shall serve respondent No. 2 privately by any legally admissible mode and to file an affidavit with tangible proof of actual service. In case of failure to serve the respondent and file service affidavit stating that the respondent is served or not, at least two days before the returnable date and to deposit the amount as aforesaid within stipulated period, the *ad interim* relief would cease to operate without further reference to the court.

[SUNIL P. DESHMUKH, J.]