

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

WRIT PETITION NO.3997 OF 2015

Salim Abbas Karimi

.. Petitioner

Versus

David Pasternak and others

.. Respondents

WITH

WRIT PETITION (STAMP) NO.9370 OF 2015

Citilights Properties Private Limited and another

.. Petitioners

Versus

Mr. David J. Pasternak and others

.. Respondents

Ms. Krishna Raja i/by LJ Law, for the Petitioner in WP No.3997 of 2015.

Shri. Akash Menon i/by Shri. Ameya Gokhale, for the Respondent No.1 in both the Petitions.

Shri. Ishwar Nankani i/by Nankani & Associates, for the Respondent Nos.9 & 10 in WP St. No.9370 of 2015 & for Respondent No.10 & 11 in WP No.3997 of 2015.

Shri. J. P. Sen, Senior Advocate a/w Piyush Raheja i/by Dastur Kalambi & Associates, for the Petitioners in WP St. No.9370 of 2015 & for Respondent Nos.2 & 3 in WP No.3997 of 2015.

CORAM : R.M. SAVANT, J.

DATE : 23rd OCTOBER, 2015

P.C.

1. The Learned Senior Counsel Shri. J. P. Sen appearing on behalf of the Petitioners in Writ Petition (Stamp) No.9370 of 2015 states

that the suit in question has been dismissed by the Learned Judge of the City Civil Court by order dated 20.08.2015 on the ground that it is not maintainable. However, the orders impugned in the above Petitions arise out of the preliminary issue raised under Section 9A by the Petitioners, which issue was decided against them. In view of the fact that the suit itself has been dismissed on the ground as not maintainable and since no challenge as yet has been raised to the said order by the Plaintiff i.e. the Respondent No.1, the above Petitions filed challenging the order passed on the application filed under Section 9A by the Petitioners do not survive in view of the fact that suit itself has been dismissed. In the event the order dated 20.08.2015 passed by the Learned Judge of the City Civil Court dismissing the suit on the ground of maintainability is challenged, in the said event the Petitioners in the above Petitions would be entitled to file applications to revive the above Petitions. With the liberty as aforesaid, the Writ Petitions are disposed of.

[R.M. SAVANT, J]