

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 5994 OF 2014

Mr. Divakar Tukaram Nevrekar .. Petitioner

vs.

Mr. Anand Shankar Rao and ors. .. Respondents

Mr. Shishir Joshi i/b. Ms Swapna Roopawate for the Petitioner.

**CORAM : M. S. SONAK, J.**

**DATE : 17 April, 2015.**

**P.C. :-**

- 1] Not on board. Upon production, taken on board.
- 2] This petition challenges the order dated 23 April 2014, by which the learned City Civil Judge has framed a preliminary issue as to whether it has jurisdiction to decide the suit.
- 3] The learned counsel for the petitioner submits that from bare reading of the plaint and the reliefs claimed therein, such issue cannot be said to have arisen, therefore, the City Civil Court has committed jurisdictional error in framing the preliminary issue.
- 4] In my judgment, there is no necessity to entertain the present petition. This is because, it is always open to the petitioner to contend before the City Civil Court that in view of the facts and circumstances, which arise in the matter, such a preliminary issue is required to be answered against the defendants.

5] However, taking into consideration that the suit is of the year 2011, it would be appropriate if the learned City Civil Judge is directed to decide the preliminary issue within a period of two months from the date on which an authenticated copy of this order is placed before him.

6] It is made clear that this Court has not examined the merits of the matter and therefore, it will be open to the learned City Civil Judge to decide the preliminary issue, in accordance with law and with utmost expedition.

7] With the aforesaid observations, this petition is disposed of.

8] All parties to act upon an authenticated copy of this order.

9] The petitioner is at liberty to place an authenticated copy of this order before the learned City Civil Judge.

**(M. S. SONAK, J.)**