

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11131 OF 2014**

Ms. Aleena Clare Dias : Petitioner

versus

**Mr. Eustagiuo Martin D'souza @
Mr. Victor D'souza and ors.** : Respondents.

**Mr. Hemant Ghadigaonkar for the Petitioner.
Mr. Lalit Jain for the Respondent No.1**

CORAM : R. M. SAVANT, J.
DATE : 21st January 2015

P.C.

1 At the outset the learned counsel appearing for the Petitioner seeks amendment of the cause title to substitute the Respondent No.2 by his heirs, which information has been furnished to him by the learned counsel appearing for the Respondent No.1. Leave granted amendment to be carried out forthwith.

2 By consent of the learned counsel for the parties, the above
Petition is taken up for admission.

3 The writ jurisdiction of this Court is invoked against the order dated 19/3/2012 passed by the learned Judge, City Civil Court at Bombay by which order Notice of Motion No.69 of 2012 for trying the issue of pecuniary jurisdiction under Order XIV Rule (2) of the Code of Civil Procedure came to be rejected.

4 The rejection of the said application is on the ground that the since the evidence has already begun, the said issue cannot be framed as a preliminary issue. The Trial Court has however observed that the said issues regarding pecuniary jurisdiction and proper valuation could be framed in the suit by passing specific order.

5 In view of the observations of the Trial Court, it is not necessary for this Court to interdict in its writ jurisdiction. The above Writ Petition is accordingly dismissed. However, it would be open for the Petitioner to follow the course of action that is propounded in Paragraph 12 of the impugned order.

[R.M.SAVANT, J]