

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 869 OF 2016

Shakir Mohd. Ebrahim

.. Petitioner

vs.

Ms Zakia Shakir Ebrahim

.. Respondent

Ms Deepti Chand for the Petitioner.

None for the Respondent.

CORAM : M. S. SONAK, J.

DATE : 28 JULY 2016.

P.C. :-

1] The challenge in this petition is to the order dated 25 November 2015, by which the Family Court, Mumbai at Bandra has rejected the petitioner's application under Section 9A of the CPC questioning the jurisdiction of the Family Court to entertain the Petition No. B-31 of 2013.

2] The objection raised by the petitioner, which is very well articulated by the learned counsel for the petitioner is that the petition as instituted seeks reliefs not only in respect of the portion, which is occupied by the respondent or which may be styled as the matrimonial property, but the reliefs are applied for in respect of even portion of the property, which is clearly beyond. Further the

learned counsel for the petitioner has contended that the property is owned by the Public Charitable Trust.

3] At the stage of deciding an application under Section 9 A of the CPC, such contentions are to a great extent irrelevant. Such contentions do not go to the root of jurisdiction to entertain the petition. Such contentions may be relevant in deciding the nature and extent of relief, if any, which the petitioner may be ultimately found entitled to. Besides, it is not as if such contentions have been rejected by the Family Court while making the impugned order. All that the Family Court has held that such questions can be answered only upon the conclusion of the trial. There is clearly no jurisdictional error or perversity in the making of the impugned order.

4] Accordingly, this petition is dismissed. There shall however, be no order as to costs.

(M. S. SONAK, J.)