

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11448 OF 2017**

Sanjogta Mangatram Arora	...Petitioner
<i>Versus</i>	
Sunriase Lifestyle & Homes Pvt Ltd & Anr	...Respondents

Mr Prem S Gidwani, *for the Petitioner.*
Mr JP Sen, Senior Advocate, *a/w Mr Gautam Ankhad, Ms Jai Chhabria, Ms Ayushi Anandpara, i/b M/s. Federal & Rashmikant, for the Respondent No. 2.*

CORAM: G.S. PATEL, J
DATED: 29th November 2017

PC:-

1. By consent the impugned order of 10th August 2017 is quashed and set aside. Before the Trial Court the directions issued for determination of the preliminary issues under Section 9A of the Code of Civil Procedure 1908 will stand. There are two preliminary issues raised. The first is at to jurisdiction, viz., whether the Small Causes Court has jurisdiction or not. The burden of proving this issue is on the 2nd defendant who raised it. The second issue is of limitation, and here it is for the plaintiff to establish that the suit as filed is within the period of limitation prescribed, if any.

2. With these directions the Writ Petition is disposed of. No costs.

3. It is for the parties whether they would lead evidence on either or both of these issues to proceed directly on arguments.

(G. S. PATEL, J)