

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

905 WRIT PETITION NO.40 OF 2018

Suman Sudhakar Jadhav & anr.

Petitioners

VERSUS

Magan Ramchandra Pawar & anr.

Respondents

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Mrs. R.S. Kulkarni, Advocate for the petitioners

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CORAM : MANISH PITALE, J.

DATE : 25th OCTOBER, 2018

PER COURT :

Heard Mrs. R.S. Kulkarni, learned counsel appearing for the petitioners. By this writ petition, the petitioners have challenged order dated 07.12.2015 passed by 3rd Jt. Civil Judge Senior Division, Dhule holding that the Court had jurisdiction to entertain the suit filed by the respondent. This was an order passed on a preliminary issue regarding jurisdiction framed by the Court under Section 9A of the Civil Procedure Code, 1908.

2. During the pendency of the writ petition Maharashtra Ordinance No.XVIII of 2018 has come into force, whereby Section 9A has been deleted from the Code of Civil Procedure. Section 2 of the said Ordinance reads as follows :

"2. in all the cases, where a preliminary issue framed under section 9A has been decided, holding that the court has jurisdiction to entertain the suit, and a challenge to such decision is pending before a revisional Court, on the date of commencement of the Amendment Ordinance, such revisional proceedings shall stand abated :

Provided that, where a decree in such suit is appealed from any error, defect or irregularity in the order upholding jurisdiction shall be treated as one of the ground of objection in the memorandum of appeal as if it had been included in such memorandum;"

3. The statement of objects and reasons for bringing about the said amendment and deletion of Section 9A of the CPC at Clause 5(b) reads as follows :

"(b) abatement of the revisions pending

before revisional forum against the decision of the Trial Court holding that it has jurisdiction to entertain the suit so as to ensure the speedy and final disposal of the suit itself, while keeping alive the right of the defendant to challenge the finding on the issue of jurisdiction at the appellate stage, in case if the suit is finally decreed;"

4. A reading of above quoted provisions shows that the present writ petition stands abated with the right of the petitioners being kept alive to challenge finding on issue of jurisdiction at appellate stage, in case, the suit filed is decreed.

5. Therefore, it is held that the present writ petition stands abated with the observation that the right of the petitioners to challenge finding on the issue of jurisdiction shall remain alive at appellate stage.

6. Petition is disposed of.

[MANISH PITALE, J.]

Donge/-