

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

WRIT PETITION NO. 4400 OF 2018

**VISHWANATH ISHWARAPPA HENE AND OTHERS
VERSUS
THE GRAM SEVAK GRAM PANCHAAAT KHAROLA AND
ANOTHER**

...

Advocate for the Petitioners : Shri V. D. Gunale and
Shri V. G. Kodale
Advocate for Respondent Nos. 1 and 2 : Shri G. V. Mahekar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 31st AUGUST, 2018.

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PER COURT :

1. The petitioners are aggrieved by the order dated 23/04/2018 passed by the trial Court, by which, application Exhibit 16 filed by defendant No. 2, raising the issue of jurisdiction under Section 9A (Maharashtra Amendment) in RCS No. 49/2018, has been allowed and the issues with regard to the jurisdiction objection have been framed.

2. By notification dated 27/06/2018, the Department of Law and Judiciary has deleted Section 9A (Maharashtra Amendment) Act from the CPC and objections with regard to jurisdiction are now to be tried under Order 14 Rule 2 of the

Code of Civil Procedure alongwith all other issues framed in the suit.

3. As such, even if the issues have been cast by the trial Court, they cannot be tried as a preliminary issue under Section 9A on account of the deletion of Section 9A .

4. In view of the above, this petition is disposed off by modifying the impugned order dated 23/04/2018. The three issues framed by the trial Court by order dated 23/04/2018 pertaining to its jurisdiction, shall be tried alongwith all other issues while deciding the suit.

5. It appears from the submissions of the learned Advocates for the respective sides that they are in a mood of settling the dispute and intend to explore the possibility of a settlement. They would be at liberty to do so before the trial Court takes up the suit for adjudication.

6. The plaintiffs are at liberty to seek an adjudication of their application Exhibit 5 filed under Order 39 Rules 1 and 2 of the CPC.

(RAVINDRA V. GHUGE, J.)

shp/-