

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

WRIT PETITION NO.10451 OF 2016

Sayeeda Begum Mahamud Sayyad
through her Power of Attorney Holder
Riyaz Mahamud Sayyaed @ Irfan.

...Petitioner...

Versus

Madhuri Rajendra Kulkarni

...Respondent..

...

Advocate for Petitioner : Mr. Kulkarni Krishna K.
Advocate for Respondent : Mr Kolpe Mahendra B.

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CORAM : N.M. JAMDAR, J.
Dated: December 05, 2018

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ORAL ORDER :-

1. By this petition, the petitioner has challenged the order passed by the learned Civil Judge Junior Division, Tuljapur dated 17 August 2016, framing a preliminary issue.

2. Learned counsel for the petitioner sought to advance the contentions as to correctness of this order framing preliminary issue. However, by Maharashtra Ordinance No. 18 of 2018, section 9A of the Code is deleted. Section 3 (1) of the Ordinance states that

where consideration about preliminary issue framed is pending on the date of commencement, said issue shall be deemed to be an issue framed under the order XIV of the Code and shall be decided alongwith the other issues at the time of final disposal of the suit.

3. By interim order granted in this petition on 17 October 2016 the issue have not been decided.

4. In these circumstances, the issues framed will not be treated as a preliminary issue, but will be decided alongwith the other issues at the time of final disposal of the suit. All contentions of the petitioner are kept open, so also the contentions of the respondents at the time of final disposal.

5. The writ petition is disposed of keeping all the contentions of the parties on the issue so framed, open.

(N.M. Jamdar, J.)

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