

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

WRIT PETITION NO. 13002 OF 2018

The State of Maharashtra
& others

... Petitioners

Versus

Shri Girish Bhagwan Patil
& others

... Respondents

Mrs. V.N. Patil-Jadhav, AGP for the Petitioners.

WITH

WRIT PETITION NO. 13003 OF 2018

The State of Maharashtra
& others

... Petitioners

Versus

Shri Sahebrao s/o Onkar Salunkhe
& others

... Respondents

Mrs. V.N. Patil-Jadhav, AGP for the Petitioners.

Coram : N.M. Jamdar, J.

Date : 28 November 2018.

Per Court :

1. Heard learned Additional Government Pleader.

2. Petitioners-State has challenged the order passed by the learned Civil Judge rejecting application under section 9A of the Code of Civil Procedure, 1908, for framing preliminary issue prior to hearing of the temporary injunction application.

3. By Maharashtra Ordinance No. XVIII of 2018, Section 9A of the Code is deleted. Notwithstanding the deletion, in certain contingencies specified in Section 3 of the Ordinance, the proceedings will be decided by the Court. The case of the petitioner do not fall in the savings clause. Thus, today, if the request of the petitioners is to be accepted, it would mean that powers under Section 9A will have to be exercised, which is not permissible in view of Section 2 of the Ordinance.

3. In the circumstances, it is open to the petitioners to take recourse of the other provisions that may be available in the Code. Keeping those remedies open, writ petitions are disposed of.

4. It is also open to the petitioners to make a request to the learned Civil Judge to expedite hearing of the suit, who will consider the same if there are no earlier time bound commitments. In case, petitioners choose to challenge the grant of interim order, it is open

for them to take such contentions as may be available in law.

N.M. Jamdar, J.