

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.6699 OF 2018  
along with  
CIVIL APPLICATION NO.2000 OF 2018  
IN  
WRIT PETITION NO.6699 OF 2018**

Subhashchandra Baburao More .. Petitioner/Applicant

Vs.

ICICI Bank Ltd. .. Respondent

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Ms.Jai Kanade i/by Mr.Akshay Petkar for the petitioner/applicant.

Mr.Mayur Bhojwani a/w Pragana Barua i/by M/s.Manilal Kher Ambalal  
& Co. for the respondent.

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**CORAM : R.D. DHANUKA, J.**

**DATE : 14<sup>th</sup> September 2018**

**P.C.:**

. By consent of parties, writ petition itself is heard.

2. The petitioner has impugned the order dated 23<sup>rd</sup> April 2018 passed by the learned 4<sup>th</sup> Civil Judge, Junior Division, Sangli framing a preliminary issue “Whether the suit is maintainable or not” at the instance of the respondent (original defendant). It was the case of the respondent that the issue involved in this suit filed by the petitioner (original plaintiff) i.e. the Regular Civil Suit No.370 of 2015 was concluded by the judgment of the Hon’ble Supreme Court.

3. It is not in dispute that the petitioner has already filed an affidavit of evidence on the issue of jurisdiction as well as on merits. In these circumstances, in my view, the issue framed by the learned trial Judge on 23<sup>rd</sup> April 2018 as a preliminary issue can be tried as one of

the issues along with the other issues already framed by the trial Court under Order XIV Rule 1 of the Code of Civil Procedure, 1908. Parties are permitted to lead their respective evidence in respect of the issues including the issue of jurisdiction framed by an order dated 23<sup>rd</sup> April 2018.

4. The learned trial Judge shall decide all the issues together after considering the pleadings, documents including the oral evidence led by both the parties. The impugned order dated 23<sup>rd</sup> April 2018 is modified by this order. The petitioner would be at liberty to file further affidavit of evidence on or before 1<sup>st</sup> October 2018 and serve a copy thereof upon the defendant's advocate simultaneously. It is made clear that no further extension of time would be granted.

5. Writ petition is disposed of in aforesaid terms. In view of the disposal of the writ petition, civil application does not survive and is disposed of. No order as to costs.

***R.D. DHANUKA, J.***