

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION No. 507 of 2017

Machindra Dattu Bhondave & ors ..Applicants.  
Vs  
Pravin Ramchandra Palekar & Ors ..Respondents.

Mr. Jaydeep Deo for the Applicants.  
Ms. Apeksha Dangche I/by Ms Shakuntala S. Wadekar  
for Respondent No.7.  
Mr Deepak R More for the Respondent No.9.

**CORAM: B.P.COLABAWALLA, J.**

**DATED : NOVEMBER 29, 2018**

**P.C. :-**

1           The present Civil Revision Application challenges to the Order and judgment dated 6<sup>th</sup> December 2016 passed by the 4<sup>th</sup> Joint Civil Judge, Senior Division, Pune below Exh.59 in Special Civil Suit No. 474 of 2016. Exhibit 59 was an application filed by original defendant No. 4, 5 and 7 to 11 (the applicants herein) under Section 9A of the Code of Civil Procedure for determining the issue of jurisdiction as a preliminary issue. This application was decided by the Trial Court vide impugned Order and Judgment dated 6th December, 2016 and the Trial Court held that it had jurisdiction to entertain the Suit. Hence, the present Civil Revision Application.

2           The learned Advocate appearing on behalf of the applicants fairly pointed out to me that now an Ordinance has been passed by the Government of Maharashtra, being Ordinance No. Maharashtra Ordinance No. XVIII of 2018. This Ordinance is called “the Code of Civil Procedure (Maharashtra Amendment) Ordinance, 2018” and comes into force at once. This Ordinance is now replaced by Maharashtra Act No. LXI of 2018 and which has received the assent of the President in the Maharashtra Government Gazette on 29<sup>th</sup> October 2018. By this Act Section 9A of Code of Civil Procedure, insofar as it applies to the State of Maharashtra, stands deleted. The learned Advocate further pointed out Section 3(2) of this Act which clearly stipulates that cases where a preliminary issue is framed under Section 9A and 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 Amended Act, the said revision application shall stand abated. He further pointed out that the proviso to Section 3(2) stipulates 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 grounds of objection in the memorandum of appeal, as if it had been included in such memorandum. The learned Advocate fairly pointed out that in

view of the clear provisions of Section 3(2) of the said Act, this civil application stands abated and can be disposed of accordingly.

3           Considering that the section 9A has been repealed and in view of the clear provisions of Section 3 (2) of the said Act, in the facts of the present case, this Civil Revision Application stands abated and is disposed of accordingly. However, there shall be no order as to costs.

**(B.P.COLABAWALLA, J)**