

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION No.615 of 2017

Vijay Tulsidas Narang & Anr ..Applicants.
Vs
Mrs Hiya Tarun Rahejha & Ors ..Respondents.

Mr. Nikhil Ghate I/by Haresh Jagtiani & Associates for the Applicants.
None for the Respondents.

CORAM: B.P.COLABAWALLA, J.

DATED : NOVEMBER 29, 2018

P.C. :-

1 This civil revision application has been filed seeking to challenge the judgment and order dated 12th July, 2017 passed by the learned Judge of the City Civil Court, Mumbai in Suit No. 4495 of 2013. The applicants herein had preferred an application for deciding the issue of jurisdiction as a preliminary issue under Section 9A of the Code of Civil Procedure. This application was decided by the Trial Court and vide impugned judgment and order dated 12th July, 2017 it held that it had jurisdiction. It is in these circumstances, present Civil Revision application has been filed.

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 29th 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)