

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

WRIT PETITION NO.645 OF 2018

Secretary,

Shri Khanderao Pratishtan

Balewadi, Pune. & Anr.

.. Petitioners

Vs.

Adkar S. Sabaji & Anr.

.. Respondents

Mr. Prathamesh B. Bhargude for the petitioners.

None for the respondents.

CORAM : A.K. MENON, J.

DATED : 20TH FEBRUARY, 2018.

P.C. :

1. By this writ petition, the petitioner challenged an order dated 1st September, 2017 passed on Exhibit 82 in Appeal no.40 of 2014 pending before the School Tribunal, Pune. By the impugned order, an application seeking framing of a preliminary issue has been rejected.

2. The preliminary issue raised reads as follows:-

*“Whether the appellant has cause of action to challenge the
otherwise termination order dated 1st July, 2013 in Appeal
no.40 of 2014 under Section 9 of the MEPS Act, 1977.”*

3. The School Tribunal after hearing the parties noted that the matter is now scheduled for arguments on behalf of the respondents and that

inspite of the matter being scheduled for arguments, there has been a change of Advocates and at this belated stage an application has been filed seeking framing of a preliminary issue. The impugned order records that all issues will be decided finally since the matter is now kept for arguments.

4. In my view, there is no occasion to interfere with the impugned order. However, Mr. Bhargude, the learned counsel for the petitioner points out that the application made on behalf of the respondent no.2 before the Tribunal being Exhibit 73 is still awaiting disposal. Exhibit 73 seeks issuance of witness summons to the Manager, National Institute of Construction Management and Research (NICMAR), Balewadi, Pune. Since the application is pending, this writ petition can be disposed of with the following directions;

- (i) Exhibit 73 shall be decided in accordance with law before deciding the main appeal. All contentions of parties are kept open.
- (ii) Writ petition is disposed of in the above terms.

(A.K. MENON,J.)