

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10796 OF 2013

City and Industrial Development Corporation
of Maharashtra Ltd.

... Petitioner

v/s

M/s Shriram Samarth Builders and
Developers , through Nitin Atmaram Bhoir
and others

... Respondents

Ms Ashutosh M. Kulkarni for Petitioner.

Mr Uday P. Warunjikar I/b Mr Sachin Keru Hande for Respondents.

CORAM : B.P. COLABAWALLA, J.

DATE : 11th DECEMBER, 2018

P.C.:

1. By this Writ Petition, the Petitioner challenges the order dated 19th August 2013 passed below Exh.15 in R.C.S. No.117 of 2013.

2. Exh.15 was an application filed by the Defendant (Petitioner herein) asking the Trial Court to frame a preliminary issue under section 9A of the C.P.C. It is the grievance of the Petitioner (Defendant) that this application came to be

rejected by the Trial Court without even framing the preliminary issue and hence the present Writ Petition.

3. The learned counsel appearing on behalf of the Petitioner has now fairly pointed out to me that section 9-A of the C.P.C. has been repealed by Maharashtra Act No.LXI of 2018. He submitted that in view of this Repeal Act, nothing would survive in this Writ Petition.

4. Considering the submissions made by the parties and going through the provisions of the Repeal Act, I find that this Writ Petition has been rendered infructuous in view of the provisions of Maharashtra Act No.LXI of 2018. It is made clear that since the Trial Court has not framed the preliminary issue at all, this issue can be raised at the appropriate stage before the Trial Court and it will be decided on its own merits and in accordance with law.

5. Considering that the Suit is of 2013, the Trial Court is directed to hear and decide the Suit as expeditiously as possible and in any event within a period of one year from today. It is further directed that neither party shall ask for unnecessary adjournment.

(B. P. COLABAWALLA, J.)