

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

18 WRIT PETITION NO. 2613 OF 2018

VISHNU BHAURAO DAMALE AND OTHERS
VERSUS
BHUJANG UTTAM BUDHWANT AND ANOTHER

Advocate for Respondent Nos. 1 & 2 : Mr. A.G. Ambetkar.

CORAM : RAVINDRA V. GHUGE, J.
Dated : February 11, 2019

PER COURT :

1. None appears for the petitioner though the matter is shown on the daily board.
2. Rather than dismissing the matter in default, I have considered this petition on its merits by going through the grounds for challenge formulated by the petitioners.
3. I have heard the learned advocate for both the respondents who are real brothers and are the plaintiffs.
4. The trial Court has rejected application Exhibit 29 filed by these petitioners in RCS No. 90/2012, praying for framing of an issue as regards the maintainability of the suit under Section 9 A of the Code of Civil Procedure.

5. I find that Section 9 A, which is the Maharashtra Amendment to the C.P.C. with regard to the jurisdiction of the Court to entertain a plaint, has been deleted from the C.P.C. by Maharashtra Ordinance No. XVIII of 2018 on 27.06.2018. The said Maharashtra Act clearly indicates that any objection having the semblance of being covered under Section 9 A, would now be considered under Order XIV Rule 2 of the C.P.C. and such objections, if any, would be considered along with all other issues while deciding the suit.

6. In view of the above, this petition need not be entertained and stands disposed of. Needless to state, the trial Court would consider the objections of these petitioners in the light of Maharashtra Ordinance No. XVIII of 2018.

(RAVINDRA V. GHUGE, J.)