

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7531 OF 2018

Mir Farkunda Ali Gazanfar Ali and another	... Petitioners
Versus	
The State of Maharashtra and others	... Respondents

....

Mr. K. C. Sant, Advocate for petitioners.
Mrs. P. V. Diggikar, AGP for respondent No.1.
Mr. S. B. Deshpande, Advocate for respondent Nos. 3 and 4.

....

CORAM : M. S. KARNIK, J.

DATED : 9th AUGUST, 2019

PER COURT :-

1. The petitioners by filing present writ petition under Article 227 of the Constitution of India, is challenging clause “B” of the order dated 28.05.2018 passed by the Appellate Court in Miscellaneous Civil Appeal No. 07 of 2018. By the impugned order, the Appellate Court restored the application Exhibit-5 filed for injunction in Regular Civil Suit No.331 of 2017 and the trial Court was directed to decide the same afresh in accordance with law and more particularly in the light of the provisions of Section 9A of the Code of Civil Procedure, 1908.

2. The position as it stands today is that Section 9A of the Code of Civil Procedure, 1908 is no more in the statute Book. Clause “B” of the order of Appellate Court is modified as under :

“The Trial Court to decide application Exhibit-5 afresh in accordance with law”.

The words “in the light of provisions of Section 9A to stand deleted.”

3. In this view of the matter, the present petition can be disposed of by directing the Trial Court to decide application Exhibit-5 afresh in accordance with law. In case, the respondents have any objection to the jurisdiction of the Court, it would be open for them to file an appropriate application before the Trial Court and the same will obviously be dealt with in accordance with law.

4. With these observations, the writ petition is disposed of.

[M. S. KARNIK, J.]

SMS