

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 WRIT PETITION NO. 672 OF 2006
WITH CA/9987/2008 IN WP/672/2006

RAOSAHEB GANGARAM GITE
VERSUS
CHANDRASHEKHAR MAHADEO GIRME DECEASED THROUGH
LRS. & OTHERS

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Advocate for Petitioner : Mr. Dhananjay Deshpande
Advocate for Respondent Nos. 1 & 2 : Mr. A. D. Sonkawade h/f
Mr. A. V. Hon
AGP for Respondent Nos. 3 to 6-State : Mr. A. B. Chate

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CORAM : V. K. JADHAV, J.
DATED : 17th December, 2019

PER COURT:-

1. This Writ Petition challenges the order passed by the trial court rejecting the preliminary objection raised by the petitioner under Section 9-A of the Code of Civil Procedure, 1908.

2. During pendency of this Writ Petition, Section 9-A of C.P.C. in its application to the State of Maharashtra has been deleted. So far as the saving clause is concerned, in terms of the saving clause (2), in all the cases, where a preliminary issue framed under Section 9-A 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 Amendment Ordinance, such revisional proceedings shall stand abated.

3. In view of the above, this Writ Petition now cannot be entertained. The Writ Petition is thus dismissed. Needless to say that the petitioner would be at liberty to file an application for recastings of the issue in the light of the objection raised earlier and it is for the trial court to consider the same and pass appropriate order on framing the additional issue in accordance with law.

4. Both the parties are at liberty to file an application for expeditious hearing of the suit and upon filing of such an application, the trial court may consider the same.

5. In view of disposal of Writ Petition, nothing survives for consideration in pending Civil Application No. 9987 of 2008 and the same also stands disposed off.

(V. K. JADHAV, J.)

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