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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.573 OF 2016

Satara District Peoples Co-op. Pahsanstha Ltd. & Anr. ..Applicants.

V/s.

Suryakant Khashaba Jadhav & Anr. ..Respondents.

Mr.Ajit Kenjale with Kaustabh Kandpile i/b. Rajesh L.Dharup for the applicants.

Mr.D.D.Rananaware for the respondents.

CORAM : M.S.SONAK, J.

DATE : APRIL 5, 2019

ORAL JUDGMENT

Heard Mr.Kenjale, learned counsel for the applicants and Mr.Rananaware, learned counsel for the respondents.

2. Rule. Rule, made returnable forthwith by consent and at the request of learned counsel for the parties.

3. Challenge in this petition is to the order dated June 15, 2015 made by which learned trial Judge holding that the suit is maintainable. The order was made after the learned trial Judge framed a preliminary issue on the aspect of jurisdiction by resort to the

provisions of section 9A of the Code of Civil Procedure ('the CPC' for short).

4. From the perusal of the order, it is apparent that the same is backed by no reasons whatsoever. On this short ground, the impugned order is liable to be set aside.

5. Ordinarily, upon setting aside the impugned order on the ground that it was backed by no reason, the learned trial Judge was required to be directed to reconsider the issue of jurisdiction and maintainability of the suit. However, section 9A of the CPC is of now is deleted and, therefore, it will not be proper to direct the learned trial Judge to framed a preliminary issue under section 9A of the CPC and thereafter, decide the same.

6. Instead, interest of justice will be served if the learned trial Judge is directed to frame an issue as regards jurisdiction and maintainability of the suit. This issue will have to be decided along with all other issues which arise in the suit on its own merits and accordance with law.

7. It is made clear that this Court has not adverted to the merits of the matter and, therefore, all contentions on merits of the parties are left open for determination by the learned trial Judge in the

suit.

8. Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

9. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)