

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.753 OF 2016**

M/s. Kalpa Construction	.. Petitioner
Versus	
Rajendra Sitaram Goel and Ors.	.. Respondents

Mr. Mohan B. Jadhav for petitioner.

Mr. K.P. Shah for respondent Nos. 1 to 3.

CORAM : K.K. TATED, J.

DATE : 05 MARCH 2019.

P.C:-

. Heard learned Counsel for parties.

2. By consent of both the parties matter is taken on board for final hearing at the stage of admission itself.

3. By this writ petition under Article 227 of the Constitution of India petitioner/original defendant No.5 is challenging the order dated 23.11.2015 passed by learned Civil Judge, Senior Division, Pune below Exhibit-87 in Special Civil Suit No.609 of 2010 permitting the plaintiff to lead his evidence for hearing of preliminary issue under Section 9A of the Civil Procedure Code, 1908.

4. Learned Counsel for the petitioner submits that as per his instructions the hearing of the preliminary issue is not completed. Same is pending for hearing on its own merits. He submits that in view of subsequent development, the trial Court be directed to decide the preliminary issue as early as possible within time bound programme.

5. To this request, advocate for respondent Nos. 1 to 3 have no objection. Hence, by consent of both the parties, writ petition stands disposed of as under :-

a) Learned Civil Judge, Senior Division, Pune is directed to decide preliminary issue, as framed by order dated 26.09.2014 below Exhibit-84 as early as possible, but in any case on or before 31.05.2019, if it is not decided till today after hearing both sides on merits.

b) Writ petition stands disposed of accordingly.

c) No order as to costs.

(K.K. TATED, J.)