

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION 523 OF 2010

Odeon Exhibitors Pvt.Ltd.

...Applicant

vs.

Prabhakar N. Chandan & Ors.

...Respondents

**WITH
INTERIM APPLICATION 3337 OF 2022
AND
CIVIL APPLICATION NO. 408 OF 2017
IN
CIVIL REVISION APPLICATION 523 OF 2010**

Prabhakar N. Chandan

...Applicant/Respondent 1

In the matter between

Odeon Exhibitors Pvt.Ltd.

...Applicant

vs.

Prabhakar N. Chandan & Ors.

...Respondents

Mr.Saket Mone with Shantam Madhyan i/b. Vidhii Partners for Applicant in CRA.

Mr.M.V. Holmagi for Respondent No.1 / Applicant in interim & civil applications.

Mr.Om Suryawanshi for Respondent No.2.

CORAM : ROHIT B. DEO, J.

DATED : 24 JUNE 2022

P.C. :

1. This application assails the order dated 22 January 2010 rendered by the City Civil Court, Mumbai in L.C. Suit 4876/2005 whereunder answering a preliminary issue, the learned trial Judge has held

that it has the pecuniary jurisdiction to try and entertain the suit.

2. Section 9-A which is the source of power for the learned trial court to decide the preliminary issue stands omitted and the Saving clause reads thus :

“(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 Act, such revisional proceedings shall stand abated :

Provided that, where a decree in such suit is appealed from any error, defect or irregularity in the order upholding jurisdiction shall be treated as one of the ground of objection in the memorandum of appeal as if it had been included in such memorandum;”

3. In view of the provisions of the Saving clause, since the preliminary issue is answered in favour of the plaintiff, this revision stands abated and the proviso shall stand triggered. If there is an occasion to challenge the decree, if any, the order upholding the jurisdiction shall be treated as one of the grounds of objection in the memorandum of appeal.

4. Even otherwise, in view of the amendment to Section 3 of the Bombay City Civil Court Act, 1948, the pecuniary jurisdiction of the City Civil Court stands increased to Rupees One Crore.

5. The civil revision application is disposed of.
6. Considering that the L.C. suit is pending since 2005, the learned trial court is requested to expedite the suit and finally dispose of the suit in any event within the next eighteen months.
7. In view of the disposal of the revision application, the interim application and the civil application taken out by Respondent 1 herein do not survive and the same are disposed of.

(ROHIT B. DEO, J.)