

Code of Civil Procedure (Maharashtra Amendment) Act, 2018

MAHARASHTRA

India

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Act 61 of 2018

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Code of Civil Procedure (Maharashtra Amendment) Act, 2018(Maharashtra Act No. 61 of 2018)(First published, after having received the assent of the President in the "Maharashtra Government Gazette", on the 29th October 2018).And Whereas, it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :-

1. Short title and commencement.

(1)This Act may be called the Code of Civil Procedure (Maharashtra Amendment) Act, 2018.(2)It shall be deemed to have come into force on the 27th June 2018.

2. Deletion of section 9-A of V of 1908, in its application to the State of Maharashtra.

- Section 9-A of the Code of Civil Procedure, 1908, (V of 1908) in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"), shall be deleted.

3. Saving.

- Notwithstanding the deletion of section 9-A of the principal Act-(1)where consideration of a preliminary issue framed under section 9-A is pending on the date of commencement of the Code of Civil Procedure (Mah. LXI of 2018) (Maharashtra Amendment) Act, 2018 (hereinafter, in this section, referred to as "the Amendment Act") the said issue shall be deemed to be an issue framed under Order XIV of the principal Act and shall be decided by the Court, as it deems fit, along with all other issues, at the time of final disposal of the suit itself :Provided that, the evidence, if any, led by any party or parties to the suit, on the preliminary issue so framed under section 9-A, shall be

considered by the Court along with evidence if any, led on other issues in the suit, at the time of final disposal of the suit itself;(2)in all the cases, where a preliminary issue framed under section 9A 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 all cases, where a preliminary issue framed under section 9-A has been decided, holding that the Court has no jurisdiction to entertain the suit, and a challenge to such decision is pending before an appellate or revisional Court, on the date of commencement of the Amendment Act, such appellate or revisional proceedings shall continue as if the Amendment Act has not been enacted and section 9-A has not been deleted :Provided that, in case the appellate or revisional Court, while partly allowing such appeal or revision, remands the matter to the trial Court for reconsideration of the preliminary issue so framed under section 9-A, upon receipt of these proceedings by the trial Court, all the provisions of the principal Act shall apply ;(4)in all cases, where an order granting an ad interim relief has been passed under subsection (2) of section 9-A prior to its deletion, such order shall be deemed to be an ad-interim order made under Order XXXIX of the principal Act and the Court shall, at the time of deciding the application in which such an order is made, either confirm or vacate or modify such order.

4. Repeal of Maharashtra Ordinance XVIII of 2018 and saving.

(1)The Code of Civil Procedure (Maharashtra Amendment) Ordinance, 2018, (Maharashtra Ordinance XVIII of 2018) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.