

28 CS 2125/16

**NARENDER KUMAR VASHISHT AND ORS Vs. SMT ANITA
SHARMA**

20.09.2024

1st call at 2:29pm

Present: Sh. T.S. Ahuja and Sh. Varun Ahuja (Mobile No.9971673660), Ld. Counsels for plaintiffs through VC (appeared at 2:29pm).
Sh. R.N. Dubey and Sh. Tapan Rajora (Mobile No.7982546417), Ld. Counsels for the defendant (appeared at 2:29pm).

Matter is listed for orders on the application under Section 114 r/w Section 151 CPC.

On 15.02.2011, issues were framed in the present suit as well as counter claim. It has come into the notice of this court that while framing the issues, issue qua possession has not been framed. Same has been apprised to Ld. counsels for parties.

Ld. counsel for plaintiff submits that under Order XIV Rule 5 CPC this court has ample power to frame an additional issue at this stage.

Ld. counsel for defendant submits that under the present facts and circumstances, this court can exercise its power to frame an additional issue only after filing of an application under Order XIV Rule 5 CPC by plaintiff. It is further submitted that this court cannot frame an additional issue suo-moto. He further submits that if this court comes to the conclusion that an additional issue is required to be framed then the defendant should be granted an opportunity to cross examine plaintiff witnesses qua the additional issue.

Ld. counsel for plaintiff submits that plaintiff has filed the present suit for possession in respect to suit property against

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defendant and she is well aware about the averments of the plaint and reliefs sought, from the date of service of summons. He further submits that plaintiff's witnesses have been duly cross examined by Ld. counsel for defendant in respect to issue of 'possession'. He further submits that no prejudice shall be caused to defendant, if an additional issue be framed and thereafter the matter be listed for further proceedings without affording an opportunity to defendant to further cross examine PW-1 qua the additional issue.

Ld. counsel for plaintiff submits that he needs some time to file case laws in support of his contentions. Let the same be filed on or before the NDOH with an advance copy to Ld. Counsel for defendant.

Put up for orders at 4:00pm.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
20.09.2024

At 4:37pm

Present: None.

Order is under dictation.

Put up for orders on **25.09.2024**.

(Deepanker Mohan)
District Judge-04
Shahdara District/KKD Courts/Delhi
20.09.2024