

**ORDER BELOW EXH.-14**  
**IN**  
**SPECIAL CIVIL SUIT NO. 23-2019**

1. Heard the Ld. Advocate for the plaintiff Mr. J.L.Thummar. The present suit is at the stage of final argument. During the course of final argument, issues framed by my Ld. Predecessor Judge vide Ex. 14 dt. 30.11.2019 and relevant provision of law under Order - 14.

2. Settlement of issues and determination of suit in the issues of law or on issues agreed upon Rule-1. Framing of issues - It is neither desirable nor required for the Court to frame an issue not arising on the pleadings. The Court should not decide a suit on a matter/point on which no issue has been frame. The object of framing of issues is to ascertain / shorten area of dispute and pinpoint, the points required to be determined by the court. The issues are framed so that no parties at the trial is taken by surprise. It is the issue fixed and not the pleadings that guide the parties in the mater of adducing the evidence.

3. Under Order - 14, Rule-5, power to amend and strike out issues, the court may at any time before passing decree, amend the issue or frame additional issues on such terms as it think fit, and all such amendments or additional issues as may be necessary for determining the matters in

controversy between the parties shall be so made or framed. The court may also, at anytime before passing the decree, strike out any issues that appear to it to be wrongly framed or introduced.

4. By going through the above provision of law, pleadings of parties, more particularly, pleadings of plaintiffs, an issues framed by my Ld. Predecessor Judge vide Ex. 14 and amend the issue on application of Ld. Advocate for the plaintiff vide Ex. 15 dt. 16.1.2020, those issues are strike out and following issues are framed under the provision of law herein above :-

1. Whether the plaintiff proves that, plaintiff and defendant entered into agreement to sale the property situated at Junagadh vide Revenue Survey No. 39/p-5 Acre 1.00 Guntha for converted into residential purpose upon plot No. 19 to 24, Multi Storey Building namely "Shreeji Vandana", 4th Floor, Plot No. 465, Plot open area 38.28 Sq.Mtr. ?

2. Whether the plaintiff proves that, defendant paid him Rs.19,000/- as an earnest money and Rs.1,20,000/- by by cash ?

3. Whether the plaintiff proves that, defendant told him that he has written cheque No.525854 dt.14.8.2018 for Rs.8,60,000/- in favour of plaintiff Capital Fin Finance Company Ltd., Axis

Bank Ltd., Ahmedabad Branch ?

4. Whether the plaintiff proves that, defendant told him that the original cheque No.525854 dt.14.8.2018 for Rs.8,60,000/- Capital Fin Finance Company Ltd., Axis Bank Ltd., Ahmedabad Branch sent for xerox copy, execute sale deed in his favour and then after not given original cheque to him ?

5. Whether the plaintiff proves that, defendant not paid him cheque amount for Rs.8,60,000/- and did not receive full consideration of executed sale deed in favour of defendant ?

6. Whether the plaintiff proves that the said sale deed is found ab-initio, illegal and without consideration ?

7. Whether the plaintiff proves that he is entitle to get remedy as prayed for ?

8. What order and decree ?

Signed and pronounced in the open court today  
i.e. 18th Day of October' 2023.

JUNAGADH.

Dt. 18.10.2023

[RAMESHWAR JITENDRABHAI MIRANI]

PRINCIPAL SR. CIVIL JUDGE

JUNAGADH.

GJ-00749.

