

ORDER ON IA.No.26 and 28

IA.No.26 an application U/o 14 rule 5 R/w 151 of CPC filed by defendant No.1 to 8 seeking to recast the issues and frame additional issues as noted in the schedule. The said application is supported by an affidavit sworn by defendants.

IA.No.28 an application U/o 14 rule 5 and 2 of CPC filed by the defendant seeking to recast the issues and frame new issues as noted in the schedule. All these applications are supported by an affidavit sworn by defendants.

On the other hand, the objection filed by plaintiff.

Heard both side. Perused material on record.

The defendants submits that the plaintiff filed this suit for partition and separate possession. The suit was decreed on 13/12/2019, against the said judgment and decree the defendants preferred an

appeal in RA.No.6/2020 and the Court has remanded the case for fresh Trial with a direction to frame additional issues and to implead necessary parties and to dispose the same by giving opportunity to lead evidence. On the other hand, no prejudice will cause to the other side. Hence, prays to allow the IAs.

The plaintiff submits the application filed by the plaintiff is not maintainable. This Court is already framed relevant issues. Further it is submitted by the plaintiff that for every denial issues cannot be framed. There are no grounds in the application. Hence, prays for dismissal of the application.

On perusal of the record, it is to be noted that the suit is remanded back. After remanding back this Court recasted the issues and framed as well as 21 issues. Now, the defendants filed application to frame additional issues.

On perusal of the re-casted issues, it is to be noted that whatever the issues sought by the defendants are already framed by this Court. It is to be noted that, as sought by the defendant new issues cannot be framed. Because, this Court has already framed re-casted issues based on the facts and circumstances of the case. Further it is to be noted that, as per the wish of the defendant issues cannot be framed and for every denial issues cannot be framed. Further there are no grounds in the application filed by the defendants is not maintainable. Hence, I proceed to pass the following.

ORDER

IA.No.26 an applications U/o 14 rule 5 R/w 151 of CPC filed by defendants is hereby rejected.

IA.No.28 an application U/o 14 rule 5 of CPC filed by defendant is hereby rejected.

For plaintiff evidence.

Call on 21/12/2023.

**Senior Civil Judge & JMFC.,
Hosadurga.**