

ORDERS ON I.A.NO.VIII

The present application is filed during the stage of defendant evidence. The defendant has filed the present application under Order XIV Rule 5 of CPC seeking for framing additional issue with respect to the valuation of the suit.

2. The defendant has contended that in his written statement he has taken a specific contention that the suit is not properly valued for the purpose of Court fee and jurisdiction but no issue has been framed in that regard. Framing of issue with respect to suit valuation is very much necessary in the present case. On these averments, the defendant has sought for allowing the application.

3. Even on providing sufficient opportunities to the plaintiff, he has not filed his objections to the present application.

4. Heard both side and also perused the entire materials on record. Now the following points do arise for consideration.

- 1) Whether the defendant has made out sufficient grounds for framing additional issues as sought for?
- 2) What order?

5. The findings of this Court on the above points are as follows:

Point No.1 : ***In the Affirmative,***

Point No.2 : ***As per final order for the following:***

REASONS

6. POINT No.1: This is a suit filed for declaration, partition and mesne profits with respect to the suit properties. The defendant having entered appearance through his counsel has filed his written statement resisting the plaintiff's claim. The present application is filed by the defendant seeking framing of additional issue with respect to value of the suit. The only ground urged by the defendant is that he has taken a specific defence in his written statement with respect to the suit valuation.

7. On perusal of written statement filed by the defendant, it could be seen in para No.5 that as per the sale agreement dtd: 07.07.2015 the suit properties are valued more than six lakhs as such this Court has got no pecunery jurisdiction to try this suit.

8. It is no doubt that the suits shall be decided by the jurisdictional Court and the judgment passed by the Court which has got no jurisdiction will be *coram non judice*. In the case on hand the defendant has taken specific plea regarding pecuniary jurisdiction of this Court by specifically stating that as per an instrument, the suit properties are valued more than six lakhs. Thus, the issue with respect to pecuniary jurisdiction is necessary in the present suit. Moreover, this Court by its order dtd: 19.08.2023 passed on I.A.No.VII has held that the issue with respect to cause of action is also necessary in the above case. Hence, point No.1 is answered in the **Affirmative**.

9. POINT No.2: In view of the above findings on point No.1, this Court proceed to pass the following.

ORDER

IA.No.VIII filed by the Defendant under Order XIV Rule 5 of CPC is allowed.

***For framing additional issue by:
07.09.2023.***

**SD/-
Addl. Civil Judge & JMFC.,
Mudigere**