



**IN THE COURT OF THE ADDL. CIVIL JUDGE AND JMFC.,
MUDIGERE**

Present: Sri. Vishwanath A., B.B.A., L.L.B.
C/c Addl. Civil Judge & JMFC.,
Mudigere.

DATED: THIS THE 03rd DAY OF DECEMBER 2024

ORIGINAL SUIT No: 150/2019

BETWEEN :

Sri.M.S.Kenchegowda,
Aged about 56 years,
S/o late M.K.Sheshegowda,
R/o Halemudigere,
Mudigere Village, Post & Taluk,
Chikkamagaluru District.

.... Plaintiff

(By Sri. B.A.Suresh, Adv.,)

AND :

The Manager,
State Bank of India (SBM)
Mudigere Branch,
Near Mudigere Church,
Mudigere Taluk,
Chikkamagaluru District.

.... Defendant

(By: Sri. K.M.Prashanth Adv.,)

PARTIES ON I.A.NO.V

BETWEEN :

The Manager, SBI
Mudigere Branch

... Applicant

AND :

M.S.Kenchegowda

... Opponent



i	Provision under which the application is filed	Order XIV Rule 5 R/w Sec 151 of CPC
ii	Relief sought for	Frame the additional issues
iii	The date on which the application is filed	15.03.2024
iv	Number of the application	V
v	The date on which the objections are filed by different opponents	25.07.2024
vi	The date on which the orders were passed on the said application	03.12.2024

(Vishwanath A.)
C/c Addl. Civil Judge & JMFC,
Mudigere.

ORDERS ON IA.NO.V FILED BY THE DEFENDANT

The defendant has filed the present application at the stage of cross-examination of PW1. This application is filed under Order XIV rule 5 r/w Section 151 of CPC, seeking to frame additional issues with respect to the maintainability of suit, existence of cause of action and valuation for the purpose of jurisdiction.

2. The grounds urged in support of this application is that the defendant in its written statement at para No.2, 9 and 15 has pleaded about non-maintainability of the suit. Further, the valuation for the purpose of jurisdiction as well as the existence of cause of action is disputed. Though as many as 6 issues are framed, but issues with respect to the aforesaid contentions of defendant, is not framed. Framing of issues with respect to said



aspects is necessary as the same is denied by the defendant. If additional issues are not framed, it may affect the merits of case and final decision of the suit. On the above averments, the defendant has sought for allowing the application.

3. The plaintiff has resisted the present application by filing statement of objections wherein contended that the present application is filed only to drag the proceedings and to cause wrongful loss to the plaintiff. The present application filed at the stage of cross-examination of PW1, is highly belated. No proper reason is furnish in support of this application. On these grounds, the plaintiff has sought for rejection of application.

4. Having heard the arguments addressed on behalf of plaintiff, this Court has carefully perused the entire materials available on record as well as written arguments of defendant counsel. In view of the above contentions, the following points arise for consideration:

1. Whether the defendant has made out sufficient grounds to allow the application as sought for?
2. What order?

5. The answers of this Court on the above points are as under:

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

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



REASONS

6. Point No.1: This is a suit for mandatory injunction against the defendant bank for return of original title deed with respect to the suit property on an assertion that the loan for the purpose of which those documents were deposited, is fully repaid. The defendant in its written statement having resisted the claim of plaintiff, has disputed the maintainability of suit against the manager of defendant bank as well as for being filed without seeking for declaration and without any cause of action. It is at the stage of cross-examination of PW1, the defendant has come up with the present application seeking to frame additional issues with respect to the maintainability of suit, existence of cause of action and valuation for the purpose of jurisdiction.

7. This Court on 03.08.2020, has framed 6 issues among which issue No.4 is with respect to maintainability of suit without seeking for declaration. In addition to the above, the defendant has denied the maintainability of suit for being filed against the manager and that without any cause of action. It is evident that in para No.6 and 15 of the written statement, the defendant has denied the cause of action by contending that the same is imaginary and concocted and the subject matter of suit does not give raise to any cause of action, as the suit is within the purview of section 7 of Specific Relief Act. This pleading of the defendant can be termed as material proposition of fact or law so as to frame issues with respect to maintainability of suit and existence of cause



of action. Thus, issue with respect to cause of action is necessary. Since issue No.4 is already framed with respect to maintainability of suit, recasting the same would suffice rather framing additional issues in that regard.

8. It is no doubt that the material proposition of fact and law being affirmed by one party and denied by other, give raise for framing of issues. Mere denial or mere questioning shall not be construed as denial of material proposition of fact or law. In so far as valuation is concerned, the defendant has merely denied the valuation of suit for the purpose of payment of court fee and jurisdiction by questioning as to how the plaintiff could value the suit at Rs.1,000/- for the purpose of jurisdiction and payment of court fee. This pleading of the defendant cannot be term as material proposition so denied, so as to frame additional issue as sought for in that regard. Apart from the above aspect, there is nothing put forth by the defendant which give raise for framing of additional issues with respect to valuation. Under the circumstances, point No.1 is answered in the '**Partly Affirmative**'.

9. Point No.2: In view of the above findings recorded on point No.1, this Court is of view to allow the present application in part. Hence, the following;

ORDER

I.A.No.V filed by the defendant
under Order XIV Rule 5 r/w Section 151



of Code of Civil Procedure, is allowed in part.

For framing of additional Issues by:
13.12.2024.

(Dictated to the Stenographer, typed by him on computer, corrected and then pronounced by me in the open court on this the **03rd day of DECEMBER, 2024**).

(Vishwanath A.)
C/c Addl. Civil Judge & JMFC.,
Mudigere.