

ORDERS ON IA NO.4 FILED UNDER
ORDER 14 RULE 5(1) R/w SEC.151
OF CPC.

The learned counsel for the plaintiff has filed this application seeking to amend the issue No.1 to 4 and also frame additional issues.

2. This application is accompanied with the sworn affidavit of the plaintiff, wherein he has stated that he has filed this suit for declaration and possession. The instant suit is remanded by the Hon'ble High Court with a direction to impleadment of the defendant No.2 to 11 in plaint. Further he complied the direction by arraying the defendant No.2 to 11 in the plaint. The same is resulted in changing the ranking of the parties. Further earlier this court framed issues as per pleadings of un-amended plaint. In the case previously framed issues retained as it is the same will be leading to ambiguity in understanding the issues with amended plaint pleadings. For that reason the issue No.1 to 4 are required to be amendment in issues is very much required to pronounce judgment and decree without any ambiguity in understanding the judgment and decree. Further stated that the defendant No.1 filed written statement. In his written statement at para No.13 and 14 took a

strong defence that he acquired the suit schedule property under the compromise decree drawn in O.S.No.410/2006 and as per the compromise decree revenue records were mutated in his favour. In this regard an additional issue is very important to be framed. If this application is not allowed he will be put into untold hardship and inconvenience and it cannot be compensated in terms of money, if the application is allowed no such hardship will be caused to the other side. Hence, he prays to allow the application.

3. On the other hand the learned counsel for the defendant No.1 has filed objection to the said application contending that the application filed by the plaintiff is belated one and the present application is not tenable under law as well as on facts and same is liable to be dismissed. The Hon'ble High Court of Karnataka was pleased to allowed the regular second appeal No.616/2021 on 25.07.2025 with on observation to implead the parties that is family members and except the said directions no other matters was please to dismissed and in view of the said observations made by the Hon'ble High Court of Karnataka the present application is absolutely not tenable and same is liable to be dismissed. The present application is filed only to protract the proceedings and on that score also the

application is not tenable and same is liable to be dismissed. The plaintiff filed the affidavit along with the said application and grounds made out in the said affidavit are all created and concocted false story and on that score also the application is not tenable and same is liable to be dismissed. Further the intend that issues is not required and already the court was framed the issues and the plaintiff went to applet and also to the Hon'ble High Court of Karantaka from the year 2016 to 2026 almost after laps of 10 years the present application is filed and it is absolutely barred by law of limitation and on that grounds also it is to be dismissed. Hence, he prays to dismiss the application with heavy cost.

4. Heard and perused. On the basis of the above pleading, the following points arise for my consideration:

1. Whether the plaintiff has made out sufficient grounds to allow the IA No.4 filed U/o 14 Rule 5(1) R/w Sec.151 of CPC.,?

2. What order?

5. My answers to the above points are as under;

Point No.1: Partly in the Affirmative.

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

:REASONS:

6. POINT NO.1: The present suit is filed by the plaintiff against the defendants for relief of declaration and possession. Now the case is posted for final argument. In the meantime the present application filed by the plaintiff with a prayer to amend the issue No.1 to 4 and also frame additional issue as shown in the application.

7. The defendant contended that the application filed by the plaintiff is not maintainable on the basis of facts and circumstances of the case and further which the plaintiff want to frame additional issues as stated in the interim application, that is not relevant and proper issue. In this case already already cross examination of the plaintiff completed and now the case is posted final argument. Further this case is remained by the Hon'ble High court of Karnataka to impelad the parties only. Hence, there is no scope to entertain the present application for framing of additional issue and amendment of issue No.1 to 4. Hence, dismiss the application with heavy cost.

8. Taking into consideration of facts and circumstances of the case and all the material on record. The Hon'ble High Court of Karntaka remained this matter solely for impleading the parties. The scope of the trial court is thus limited to that direction. But as per the direction of the

Hon'ble court the plaintiff implead the defendant No.2 to 11 in the plaint. The same is resulted in changing the ranking of the parties. In that circumstances recasting of the issue No.1 to 4 is required. Hence, on this ground only this court is of the opinion that recasting of the issue no.1 to 4 is required. Hence, allowing the additional issues would reopen settled aspects beyond the remand's ambit. With these observations the application, I answered point No.1 in the Partly in the Affirmative.

9.POINT NO.2: In view of the discussion made in detail while answering point No.1, I pass the following;

ORDER

I.A.No.4 filed on behalf of the plaintiff under order 14 Rule 5(1) R/w Sec.151 of CPC., is hereby partly allowed.

Accordingly issue No.1 to 4 recasted. Hence, case is posted for final argument.

Sd/-

**Sr. Civil Judge & J.M.F.C
Channagiri**