

**IN THE COURT OF THE II ADDITIONAL SENIOR CIVIL
JUDGE AND J.M.F.C. HUBBALLI**

Present:- Smt.Deepa G Manerkar,
B.Com. L.L.B, (Spl.)
II Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.

Dated this the 01st day of April 2026

O.S. No.260/2023

Smt. Pooja W/o Prakash Hubballi and another

...Plaintiff/s

-Versus –

Smt. Priya W/o Mallikarjun Bhusad and another

.....Defendants

IA.No.VII

Smt. Priya W/o Mallikarjun Bhusad and another

APPLICANT/ DEFT.

Versus –

Smt. Pooja W/o Prakash Hubballi and another

OPPONENT/ PLFF.

ORDERS ON I.A.NO.VII FILED U/O. 14 RULE 5
R/W SEC.151 OF CPC.

The present I.A. is filed by the counsel for the defendant No.1 and 2 under Order 14 Rule 5 R/w Sec.151 of CPC to fame the additional issues.

2. In the affidavit annexed to the present I.A., it is sworn by the defendant No.1 that, the City Survey Entry dated 17-04-2000 in respect of suit Item No.I property is behind his back of back and entries are not according to law and the said Sri. Fakkirappa S/o Veerupakshappa Bhusad was not the absolute owner / holder of the suit schedule property item No.I, as the said immovable property is a H.U.J.F. property of the previous holders, in the said property accept Sri. Fakkirappa S/o Veerupakshappa Bhusad, there are other joint holders / owners and other co-owners and also other co-parcencers. As such the alleged gift deed

dated: 30-03-2000 is not according to law and so also the City Survey Entry dated:17-04-2000 on the basis of above alleged gift deed is not binding on their legal and lawful shares, rights, title and interest and coparcenary rights of the said property. The City Survey Entries dated: 20-07-2001 in respect of suit Item No. III property is behind the back of him, and the said entries are not according to law and the said Sri. Fakkirappa S/o Veerupakshappa Bhusad, and also his wife Smt. Anasuya F. Bhusad were not the absolute owner or holder of the suit schedule property item No.III, as the gifted by Smt. Boravva said immovable property is a wife of Veerabhadrappe Mudhol as per the Registered deed dated 30-11-1972 in favour of Sri. Mallikarjun F. Bhusad who is a husband of defendant No.1 and father of defendant No.2. So also the said suit Item No.III property is not a H.U.J.F property. As such the alleged

the City Survey Entry dated 20-07-2001 is not binding on their legal and lawful shares, rights, title and interest and co-parcencery rights of the said property. The present application for framing necessary and proper additional issues as per the pleadings of their written statement are very much necessary to adjudicate the questions involved in this suit judiciously to the full and final extant as per law and also to avoid the multiplicity of proceedings and also to save the valuable and precious judicial time the said additional issues are necessarily be framed. That, if the additional issues as prayed for are not framed, in that event much prejudice, injury, injustice and hardship would be caused to the defendants. Hence, prayed to allow the application.

3. The counsel for plaintiff has filed objection contending that in the above case issues has already framed by this Hon'ble court on 15.11.2023 observing

the detailed facts and averments made by both the plaintiffs and defendants and has covered all the major issues covering every aspects of the suit in dispute from both side parties interest. Therefore the defendants prayer in the said above application to frame additional issues is not necessary it is only a application made to prolong the proceedings and consume the valuable time of the court. That the application filed by the defendants is only to achieve 'Animus lucrandi' by enjoying as much as possible and make use of the suit properties in question and the defendant No.1 and 2 are receiving entire rent of the suit properties only with the intention to cause financial loss to this plaintiffs they have filed this application same may kindly be dismissed with cost. It is submitted that the para No.1 in the said application made by defendants the gift deed dated 30.03.2000 is already challenged and accordingly issues

is being framed as issue No.2 in the issues already framed. Defendants are making or seeking repetitive issues to frame merely to waste the time of this court. It is further submitted that the para No. 2 of the affidavit of defendant is also being repeated which is already covered by this Hon'ble court in the issues framed on 15.11.2023 in nexus with this present suit. That the prayers in the application sought by the defendants to frame the issues considering the pleading in written statement para No.13 (d) and (e) is unnecessary at this stage when the issues are already framed, it is time consuming process which prolongs the suits result and the precious time of the court is wasted. The Hon'ble court has already taken in to consideration of para No. 13 (d) and (e) at the time of framing of issues. That the application filed by the defendants are totally false not at all maintainable either in law or on facts. The

contents of the application and affidavit are all false, frivolous and vexatious. Hence the application is liable to be dismissed. The application is filed only with an intention to harass the plaintiffs and to drag the proceedings on one and other reasons and same is not maintainable in the eye of law. Hence prayed to reject the application.

4. On the basis of rival contentions the points that would arise for my consideration is:

1. Whether the present application deserves to be allowed?
2. What Order?

5. Heard arguments from both side counsels.

6. My findings on the above points is as follows :-

Point No.1	:	partly in the affirmative
Point No.2	:	As per final order for the following;-

REASONS

7. **Point No.1:-** The present IA is filed by defendant No.1 and 2 to frame additional issues contending that, the entries made by the City Survey Officers dated 20.07.2021 in respect of Item No.3 schedule property are behind the back of defendant No.1 and 2 and same are not according to law and similarly Item No.3 property is not HUF property. As such the entry dated 20-07-2021 is not binding on defendant No. 1 and 2 and same are not legal and lawful. It is also their contention that the entries made by the City Survey Officers dated 17.04.2000 in respect of Item No.I property are behind their back and not in accordance with law as said property is a H.U.J.F. property of previous holders. The said gift deed is not binding on legal and lawful shares of defendant No.1 and 2.

8. It is pertinent to make mention that this court has already framed Issue No.2 casting the burden on defendants to prove that the gift deed executed by Fakkirappa in favour of Anasuya in respect of item No.I property is illegal and executed for name sake. Similarly, issue No.3 is already framed casting burden on the defendants to prove that item No.III property is not a joint family property as per gift deed dt:30-11-1972. However, though issue No.3 has been framed same appears to be incomplete and same is only required to be recasted by deleting issue No.3. As such the present application deserves to be allowed in part only as to correct issue No.3 which is incomplete. Otherwise already issues have been framed hence, there is no question of framing same issues again . Hence the present application deserves to be allowed in part. As

such above point is answered **partly in the Affirmative.**

9. **Point No.2** : In view of the findings and answer to point No.1, this court proceeds to pass the following:-

ORDER

IA No.VII filed by the defendant No.1 and 2 U/O XIV Rule 5, R/w Sec.151 of CPC is hereby allowed in part.

Issue No.3 is recasted as:-

Whether the defendants prove that the gift deed dated 30.11.1972 in respect of Item No. 3 property is not binding on the share of the defendants as same is not joint family property.

(Direct dictated to the stenographer on computer, typed by her, corrected by me and then pronounced in the open court on this the 01st day of April 2026.)

Sd/-
(Smt. Deepa G Manerkar)
II Addl. Senor Civil Judge and JMFC
Hubballi.