

ORDERS ON IA No.VII

The defendant has filed this IA under order XIV Rule 5 read with section 151 of Code of Civil Procedure for seeking permission to frame the additional issues.

On the other hand, the plaintiff counsel has filed the detailed objection stating that IA No.VII may allowed on payment of costs.

Heard the arguments on both sides and perused the materials on record.

The defendant has taken a specific contention in the written statement that after filing the written statement, this Court has framed certain issues on the pleadings. But in para No.13 at page No.6 of his written statement, He has specifically contended that the present suit filed by the plaintiff is hoplessly time barred and on this grounds the suit is liable to be dismissed. But this Court has not framed the issue on this contention. Further, he submits that the plaintiffs have not filed the suit within the prescribed time of limitation. Hence, the suit is barred by limitation and on this ground only the suit is liable to be dismissed. Hence, before going through the other issues an additional issue is to be framed to effect of limitation. Hence, it is just and necessary to frame the additional issue. On perusal of the issues framed by this court, the court has not framed any issues regarding this fact made in the written statement. If the additional issue has framed, no harm would be caused to the plaintiff side. If the application is dismissed, it would be causes great loss to the defendant. Hence, I proceed to pass the following;

ORDER

The IA No.VII filed by the defendant under order XIV Rule 5 read with section 151 of Code of Civil Procedure is here by allowed.

No order as to costs.

The following additional issue is framed.

“Whether the defendant proves that the suit filed by the plaintiff is barred by limitation?”

(Balasaheb Wadavade)
CJ & JMFC, Savanur.