

Heard counsel for defendants on I.A., filed U/o.14 R-2 of C.P.C., seeking to treat the additional issue as preliminary issue to decide the rights of parties. According to them the suit is hopelessly barred by limitation and said issue needs to be adjudged first. The plaintiff filed objections to the said application by denying the averments of application. Admittedly the date of execution of agreement of sale is shown as 24-02-1989. The plaint averments also indicate that the defendants left the village and he did not know the whereabouts of defendants. Therefore, he could not seeks to execute the sale deed. The said fact requires to be adjudicated in the full pledged trial. Therefore, keeping open the issue of limitation, I hold that issue of limitation is a mixed question of law and fact and it requires to be adjudicated. Hence, keeping open the said issue in the trial, I reject the application filed by defendants. Call on 18-10-2019 for plaintiff evidence.

Prl.Civil Judge Koppal.