

ORDERS ON IA NO.22

This application is filed by the defendant No.13 under order 14 Rule 5(1) R/W/S 151 of CPC for framing of additional issues.

2.The defendant No.13 sworn to affidavit to the present application and stated that the plaintiff has filed the present suit for partition and separate possession, declaration and permanent injunction. In para No.8 of the plaint he himself admitted that he sold suit schedule property to defendant No.17 through registered sale deed dated 04.09.2014. All revenue records are standing in the name of defendant No.17. They show that the plaintiff is not in possession of the suit schedule property, but defendant No.17 is in possession and enjoyment of the property. The defendant No.13 in his written statement stated that land measuring 2 acres 20 guntas was sold on 05.07.1965 and land measuring 2 acres 07 guntas was sold on 20.05.1967. It is also stated in the written statement that revenue records clearly show that the plaintiff is not in possession of the suit schedule property. The suit schedule property is not ancestral and joint family property of the plaintiff. Therefore, the present application is filed to frame Addl. Issues about the said pleadings. Hence, the present application is filed.

3. The plaintiffs objected the present application by filing statement of objections and contended that the present application is filed when the case is posted for defendant evidence. In the present case issues have already been framed. The power of attorney holder plaintiff has already led evidence. The additional issues sought to be framed are not necessary issues. Therefore, it is prayed to reject the present application.

4. Heard and perused.

5. The point that arises for my consideration is as follows ;

Whether the defendant No.13 has made out sufficient grounds to framed additional issues as sought for?

6. My answer to the above point is in the **Negative** for the following ;

REASONS

7. The present suit is filed for partition and separate possession, declaration of sale deed dated 04.09.2014 as not binding on the plaintiff's share and permanent injunction. It is the case of the plaintiffs that the suit schedule property is joint family and ancestral property. The defendants 2 to 4 and 11 to 16 have filed their written statement. The defendant No.19 filed memo of adoption adopting the contents of written statement of

defendants 2 to 4 and 11 to 16 as her written statement. The defendant No.17 ,18, 23 to 25 have filed their written statement separately. This court framed issues on 27.06.2017. Thereafter, additional issues are framed on 25.06.2017. Again, addition issues are framed on 24.02.2022. The defendant No.13 through the present application has sought for framing of additional issues with regard to point of limitation, joint possession of the plaintiff over the suit schedule property, valuation of the suit and court fee paid by the plaintiff. In respect of point of limitation, additional issue No.4 is already framed on 21.02.2022. The issue of joint possession of suit schedule property by the plaintiff covers under issue No.2. In respect of court fee and valuation of the suit, no contention is taken by the defendant No.13 in his written statement that the suit is under valued and the court fee paid is insufficient. Issues can not framed without pleadings. Therefore the issues already framed by this court are proper issues and there is no need to frame additional issues as sought for in the present application. Accordingly, the present application needs to be rejected with costs. Therefore, above point is answered in the **“Negative”**. Hence, this court proceeds to pass the following:

ORDER

IA No.22 is filed by defendant No.13 Under Order 14 Rule 5(1) R/W/S 151 of CPC is hereby rejected with costs of Rs.500/-.

The defendants are directed to lead their evidence without taking further adjournments.

For defendants evidence call on 01.09.2025

**Addl. Senior Civil Judge & JMFC.,
Maddur.**