

KAMS310000312010



**IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC,
HUNSUR**

:PRESENT:

**SMT. NAMRATA S HOSMATH, B.A., LL.B.,
I ADDL. CIVIL JUDGE & JMFC,
HUNSUR.**

DATED THIS THE 31st DAY OF JULY, 2026

O.S.No.144/2010

<u>PLAINTIFFS:</u>		Lalithakumari & another
---------------------------	--	-------------------------

// Vs //

<u>DEFENDANT:</u>		Nirmala Shanthakumari & others
--------------------------	--	--------------------------------

PARTIES TO I.A. NO.XXIII

APPLICANT/ PLAINTIFF NO.1	:	Lalithakumari
--------------------------------------	---	---------------

// V/s //

OPPONENT/ DEFENDANT	:	Nirmala Shanthakumari & others
--------------------------------	---	--------------------------------

i	Provision under which the application is filed	U/o XIV Rule 5 R/w Sec.151 of CPC
---	--	-----------------------------------

ii	Relief Sought for	To frame additional issues
iii	The date on which the application is filed	24.02.2026
iv	Number of the application	XXIII
v	The date on which the objection is filed by opponents	16.03.2026
vi	The date on which the order was passed on the said application	31.07.2026

ORDERS ON I.A. NO.XXIII

The application in I.A. No. XXIII has been filed by the plaintiff under Order XIV Rule 5 of the Code of Civil Procedure (CPC) read with Section 151 of CPC, seeking to frame the proposed issue as additional issue for determination of the disputes between the parties. The proposed additional issue is as follows:

1. Whether the defendant No.2 to 4 proves that they have perfected title to the suit schedule property by way of adverse possession?

2. In the affidavit filed in support of the application, the plaintiff has contended that, the counsel at the time of preparing for arguments, it was noticed that, an important issue with regard to the contention raised by defendant No.2 to 4 was left out. It is further contended that, the framing of additional issue is necessary to decide the dispute between the parties. On these grounds, the plaintiff has sought framing of

the above said additional issue and accordingly prayed for the same.

3. Per contra, the defendant No.2 to 4 has filed objections opposing the application. It is contended that, the application is neither maintainable in law nor on facts, and therefore deserves to be dismissed at the threshold. The defendant No.2 to 4 further contends that, the plea of adverse possession is alternative contention taken by the defendants. Hence, framing of additional issue on the same is not necessary. It is further contended that, the defendant No.2 to 4 is not pressing the plea of adverse possession taken by them in paragraph No.23 of their written statement. On these grounds, the defendant No.2 to 4 have prayed for dismissal of the application.

4. Heard and perused the materials available on record.

5. The points that arise for consideration of this Court are:-

1) Whether the proposed issue is necessary for the determination of matter in controversy between the parties?

2) What order?

6. My findings on the above points are as under:-

Point No.1 : In the Negative

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

REASONS

7. **POINT NO.1:-** The plaintiff has instituted the present suit seeking the relief of partition and separate possession. The present application has been filed by the applicant at a stage when the matter was posted for reply arguments by plaintiff counsel.

8. Order XIV Rule 1 of the Code of Civil Procedure provides that issues arise when a material proposition of fact or law is affirmed by one party and denied by the other. The said Rule further provides that material propositions are those propositions of law or fact which the plaintiff must allege in order to show a right to sue, or which the defendant must allege in order to constitute his defence. Sub-rule (3) of Rule 1 further provides that each material proposition affirmed by one party and denied by the other shall form the subject matter of a distinct issue. Issues may be issues of fact or issues of law. It is well settled that under Order XIV Rule 5 of the Code of Civil Procedure, the Court has ample power to amend issues or frame additional issues at any stage of the proceedings, if such issues are necessary for determining the real questions in controversy between the parties. The object of framing issues is to identify the material propositions of fact

and law on which the parties are at variance. Keeping these principles in view, the present application is to be considered.

9. In the present case, the plaintiff has sought framing of additional issue mainly on the ground that the defendant No.2 to 4 have taken specific contention of adverse possession. It is to be noted that, though defendant No.2 to 4 had taken specific contention of adverse possession, however defendant No.2 to 4 had filed IA No.24 to delete the said paragraph. Accordingly, by passing detailed order on IA No.24 has allowed the application and the specific contention of defendant No.2 to 4 with regard to adverse possession is deleted. Further in the absence of specific plea with regard to adverse possession and in the absence of such a specific prayer, the said issue does not arise for consideration and therefore, need not be framed.

10. In view of the above discussion, this Court is of the opinion that framing of an additional issue not required. Hence, for the reasons stated above, this Court is of the considered opinion that the application filed by the plaintiff deserves to be rejected. Accordingly, Point No. 1 is answered in the **Negative**.

11. **Point No.2:** In view of the foregoing discussions and findings on point No.1, this court proceeds to pass the following;

ORDER

The application in I.A.No.XXIII filed by the plaintiff under Order XIV Rule 5 R/w Section 151 of C.P.C. is hereby rejected.

(Dictated to the Stenographer, directly on computer, typed by her, corrected, signed and then pronounced by me in the open Court on this the **31st day of July, 2026**)

(NAMRATA S HOSMATH)
I Addl. Civil Judge & JMFC.,
Hunsur.