

Date: 17.09.2014

Advocate for the defendant no.7 has submitted that the additional issues framed in this suit needs to be tried as preliminary issues without going in to the trial of the other issues. It was submitted him that the additional issues is with reference to the court fee paid and the valuation of the suit and that most be decided at the initial stage before recording of evidence on merits. I have also heard learned counsel Sri LVS for the plaintiff.

Learned counsel for defendant No.7 has referred to a decision of the Hon'ble High court of Karnataka reported in ILR 2009 KAR 887 between Veeragowda and other V/s Shanthakumar @ Shanthappa Gowda. I have perused the decision of the Hon'ble High court of Karnataka and in that case a suit for partition was filed and defendant took a plea regarding suit valuation and payment of court fee. Accordingly an issue was framed regarding court fee. Then the defendant filed an application before the court to try that issue as a preliminary issue which came to be rejected. So, the plaintiff filed a writ petition before the Hon'ble High court of Karnataka and it was observed that such an issue shall tried a preliminary issue it necessary after recording of evidence. Therefore the writ petition of the plaintiff came to be rejected. So, by applying the above principal of the Hon'ble High court of Karnataka, I find that the prayer of the defendant No.7 is with merits and the issue regarding court fee will have to be tried as a preliminary issue. Hence, I pass the following;

ORDER

Case is posted for evidence and hearing on additional issue
call on 06.10.2014.

Addl. Senior Civil Judge,
Ramangara.