

**Orders on I.A.No.9**

The defendant has filed this instant I.A., U/O.14 Rule 5 r/w. Sec.151 of C.P.C., to frame the Additional issues in the above matter as mentioned in the I.A.

The I.A., copy was served to the other side. The plaintiff has filed the detailed objection and resisted the I.A., filed by the defendant.

Heard the arguments of both sides.

On perusal of the rival contention of both the parties and other materials placed on record, the following points would arise for my consideration.

**Point No.1:** Whether the I.A.No.9 filed by the defendant is deserves to be allowed?

**Point No.2:** What order?

My answer to the above points are as follows;

Point No.1: In the Affirmative.

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

**REASONS**

**Point No.1:** It is the urge of the defendant that, the defendant in his written statement he has taken the specific contentions that, the suit of the plaintiff is barred by Limitation and suit of the plaintiff is barred under Section 11 of C.P.C., by way of resjudicata and also suit of the plaintiff is barred under Order II Rule 2 of C.P.C. But, in this regard this Court has not framed the issues. To frame the additional issues as per the contention of the defendant is very much necessary for proper adjudication of the matter.

On the other hand, the plaintiff has contended that, the application filed by the

defendant when the matter is set down for final stage of cross-examination of PW-1. The defendant has filed this I.A., only with an intention to protract the proceedings and the I.A., filed by the defendant is devoid of merits.

On perusal of the materials placed on record, admittedly the plaintiff has filed this suit against the defendants for the relief of recovery of possession of the suit schedule properties and to grant such other reliefs if this Court deems fit. It is to be noted that, in the instant suit the issues were already framed on 15.11.2022. It is relevant to note that, the defendant in his written statement he has taken specific contention that, the suit of the plaintiff is barred by Limitation and suit of the plaintiff is barred under Section 11 of C.P.C., by way of resjudicata and also suit of the plaintiff is barred under Order II Rule 2 of C.P.C. But, in this regard this Court has not framed the issues. Perused the issues framed in the above matter. It appears that, this Court has not framed the issues with regard to the contention taken by the defendant in his written statement. As per Order XIV Rule 5 of Code of Civil Procedure, the Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed. Under these facts and circumstances, to frame additional issues in the above matter is very much necessary

for proper adjudication of the matter. Acting under Order XIV Rule 5 of C.P.C., the following additional issues are framed;

“1. Whether the suit of the plaintiff is barred by limitation?

2. Whether the suit of the plaintiff is hit by the Provisions under Section 11 of Code of Civil Procedure?

3. Whether the suit of the plaintiff is barred under Order II Rule 2 of C.P.C.,?”

For all these grounds, I answer the Point No.1 in the Affirmative.

**Point No.2:-** In view of my findings while answering the point No.1, I proceed to pass the following;

**Order**

The I.A.No.9 filed by the defendant under XIV Rule 5 r/w. Sec.151 of C.P.C., is hereby allowed.

Call on for further cross-examination of PW-1 by 06.04.2026.

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