

ORDERS ON I.A.NO.8

The application I.A.No.8 is filed by the plaintiffs under Order XIV Rule 5 r/w Section 151 of CPC, praying for an order to frame additional issues as stated in the application.

2. The application is supported by affidavit of the plaintiff no.3 and it is sworn that they filed suit against the defendants for the relief of specific performance of the contract. The defendants after their appearance have filed their written statement and they have contended several new facts and same are required to be proved by the defendants. It is also sworn that, no issues are framed regarding the averments made in the written statement which are required to decide the dispute between the contesting parties. Therefore it is necessary to frame the additional issues as stated in the application. Hence prayed to allow the application.

3. The counsel for defendants has elaborately filed objections to the application and it is stated that, issues were framed by this court very long ago and the plaintiffs never raised any grievances regarding issues framed by this court and they have already completed their entire evidence. It is also stated that, the proposed issues as stated by the plaintiffs are nothing but verbatim reproduction of the averments made in the written statement. Every pleadings in the written statement does not necessarily require a separate issue. The issues already framed are comprehensive enough to adjudicate the real controversy. It is also stated that the plaintiffs have not pointed out any material proposition of fact of law which is remained omitted by the court

while framing the issues. The present application has been filed with an intention to prolong the proceedings. Hence prayed to dismiss the application with cost.

4. Heard the arguments of counsel for both parties.

5. The points that arise for consideration of this court are as under:

POINTS

1. Whether the plaintiffs have made out sufficient grounds to frame additional issues as stated in the application?

2. What order?

6. The findings of this court on the above points are as under:

Point No.1: In the Affirmative

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

R E A S O N S

7. **Point No.1:-** The plaintiffs have filed present application to frame additional issues as stated in the application. Admittedly the plaintiffs have filed present suit for the relief of specific performance of contract. The defendants after their appearance have filed their written statement. Based on the rival pleadings of the parties, this court has framed the issues. Now the plaintiffs prayed to frame additional issues as stated in the application. On

perusal of the proposed additional issues, the plaintiffs have suggested 10 additional issues to be framed. This court has carefully perused the written statement filed by the defendants. On careful perusal of the written statement filed by the defendants, they have specifically taken up plea in respect of limitation, court fee, ownership of defendant no.1 over the schedule property and also forfeiture of advance amount received by the defendant no.1. On perusal of the issues already framed by this court, no issues have been framed in respect of said defense raised by the defendants. On careful perusal of the rival pleadings of the parties, in order to decide the dispute between the parties, it is necessary to frame some additional issues in respect of aforesaid pleadings raised by the defendants. Even though the plaintiffs have suggested 10 additional issues to be framed but on careful perusal of the averments made in the written statement, some issues in respect of limitation, court fee and forfeiture of the advance amount and ownership of defendant no.1 should be framed. The plaintiff no.3 by swearing the affidavit has made out grounds to consider the present application. No doubt, the present application is filed when the case is adjourned for cross examination of DW.1 and as per Order XIV Rule 5 of CPC., the court at any stage before the pronouncement of judgment may frame additional issues. Therefore by considering the reasons, the application deserves to be allowed in part. Hence, for the said reasons this court answers **Point No.1 in the Affirmative.**

8. **Point No.2:-** In view of the reasons discussed in the above point, this court proceeds to pass the following:

ORDER

The application I.A.No.8 filed by the plaintiffs U/O XIV Rule 5 r/w Section 151 of CPC is hereby allowed and the necessary additional issues are hereby framed.

For cross-examination of PW.1.

Call on 28.08.2026

**II Addl. Senior Civil Judge & CJM
Mysuru**