

ORDERS ON I.A.No.6

The learned counsel for defendant No.2 filed an application under Order 14 Rule 5(1) r/w Section 151 of CPC praying to frame additional issue.

2. The application is accompanied by an affidavit sworn by the second defendant. In his affidavit he has stated that they have taken a specific defence regarding payment of court fee and other legal aspects and also they have taken a contention that suit is barred by limitation. But the issue has not been framed regarding limitation.

3. Per contra, learned counsel for plaintiff filed objection by contending that application is not maintainable as there is

no requirement of framing of additional issues. The initial burden always rest upon the plaintiff to discharge his burden. The question of limitation is a matter of law and it can be considered without framing issues. Hence, prays to dismiss the application.

4. Heard arguments on both side and perused the materials available on record.

5. The points that would arise for consideration are:

1) Whether defendant No.2 has made out sufficient ground to frame additional issue?

2) What Order?

6. My answers to the above points are:

Point No.1: In the affirmative,

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

REASONS

7. **Point No.1**: - The plaintiff has filed this suit for delivery of possession. Based on the pleadings of both the parties, my learned Predecessor in office framed as

many as 6 issues. When case posted for defendants' evidence the learned counsel for defendant No.2 filed instant application by stating that he has taken a contention regarding limitation in his written statement but issue has not been framed regarding limitation.

8. On perusal of written statement filed by defendant No.2, he has taken a contention regarding limitation but this court while framing issues, have not framed issue regarding limitation. The point of limitation is mixed question of law and fact when the defendant No.2 has taken a specific contention in his written statement regarding limitation framing of additional issue is just and proper for proper adjudication of the case. Hence, I answered point No.1 in the affirmative.

9. **Point No.2**: - In view of my above findings, I proceed to pass the following:

ORDER

I.A.No.VI filed by the defendant No.2 under Order 14 Rule 5(1) r/w Section 151 of CPC is hereby allowed and proceed to frame following additional issue:

**1)Whether the suit of the
plaintiff is barred by
limitation?**

For defendants evidence by
29/01/2025.

**Prl. Sr. Civil Judge and JMFC.,
Bhadravathi.**

Additional Issue print.....