



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC AT
GUBBI**

Dated this the 11th day of December 2025

:: PRESENT::

**KIRAN S.P., B.B.M., LL.B.,
Prl. Civil Judge & JMFC., Gubbi**

OS No. 72/2014

Plaintiff : - Smt. Basamma

-V/s-

Defendants :- Smt. Gowramma dead by Lrs.

CAUSE TITLE ON IA No.XXII

**Applicant: - Smt. Basamma W/o Shivananjappa,
D/o Late Chikkabasappa,
aged about 68 years,
R/by Thotasagara, Kasaba Hobli,
Gubbi taluk.**

(By Sri. M.V.N., Advocate)

**Respondents: Smt. Gowramma W/o Karibasavaiah,
Aged About 75 years,
R/by Thotasagara, Kasaba Hobli,
Gubbi taluk.**

(By Sri. S.G., Advocate)



ORDER ON IA No.XXII

The legal representatives of defendant have filed application under order 14 Rule 5 of CPC to frame the additional issues which are necessary for determination of the matter in controversy.

02. The Proposed additional issues stated by the learned counsel for legal representatives of defendant are as follows:

1. Whether the plaintiff proves that the recasting the board by limitation of the above said partition and such other reliefs and is legally enforceable document.
2. Whether the Ir's defendant proves that the change the khata and pahani have got lawful revenue entries in suit items No.1 to 11 in view of the basis of will.

03. In support of the application, the defendant No. 1(c) has filed his affidavit contending that the plaintiff has filed the suit against the defendants. The case is in arguments stage and the mean while this Hon'ble court has framed the Additional issues, after that it came to the knowledge of defendants that the proposed additional issues was just and necessary to prove the defence. If the application is allowed no injury or loss would cause



to other side, If the application is not allowed defendants will be put to loss and injury. Hence they pray to allow the application and pray to frame the additional issues.

04. This application is resisted by the plaintiff by filing objection and contending in the objection that the application is not maintainable either in law or on facts. The applicant has sworn to a false affidavit. The proposed issues sought in the application are meaningless and not understandable. The conduct of the applicant is procrastination of proceedings, with oblique motive adopting the Lynch law of procrastination of time. The applicant is deliberately, intentionally willfully tried to deteriorate the proceedings of case without any legal grounds. The conduct and nature of the applicant is not a bonafide one. The plaintiff has filed the suit for partition and separate possession of the suit schedule properties. The Hon'ble court has already framed all the necessary Issues required for the proper and final adjudication of this suit. Both the plaintiff and defendants have adduced evidence on all the Issues and the Arguments of the plaintiff was also submitted and the case was posted for Arguments of the defendant side. But instead of submitting the Arguments when the case is posted for the Arguments of defendants as finally, the applicant has filed this application with improper proposed Issues which doesn't carry any meaning and those proposed Issues are not necessary for



the Proper adjudication of the case. The plaintiff is filing applications one after the other with a malafide intention to prolong the proceedings. Hence he prays to dismiss the application.

05. Heard Arguments.

06. After considering the contents of the application as well as the contents of affidavit, objection, the points that arise for my consideration are as follows:

1. Whether the proposed additional issues are required to determine the matter in controversy between the parties?
2. What order?

07. My answers to the above points are as follows:-

Point No. 1: In the Negative

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

REASONS

08.**Point No.1:** I have perused the plaint, where in the plaintiff filed this suit against the defendant for the relief of partition and separate possession over the suit schedule properties. On service of suit summons the



defendant has appeared before the court through his counsel and filed his written statement. After filing of the suit my predecessor was pleased to frame the Issues and re-casted issues were also framed

09. Basing on the said pleadings available materials on record my predecessor in office was pleased to frame the following:

RE-CASTED ISSUES

1. Whether the plaintiff proves that, the suit schedule properties are the joint family properties of the plaintiff and defendant ?

2. Whether the defendant proves that, the suit schedule item Nos. 1, 6 and 7 are her self acquired properties?

3. Whether the defendant further proves that, the suit schedule item Nos.2 to 5 and 8 to 11 are the self acquired properties her father viz Chikkabasavaiah S/o Channabasavaiah as of pleaded in para No.7(a) of amended written statement?

4. Whether the defendant further proves that, her father i.e. the said Chikkabasavaiah S/o Channabasavaiah had executed will dated 04.09.1961 in favour of



defendant in respect of suit item Nos.2 to 5 and 8 to 11 as pleaded in para No.7(a) of amended written statement?

5. Whether the plaintiff is entitle to the relief of partition and separate possession as prayed for ?

10. The suit filed by the plaintiff seeking the relief of partition and separate possession. Re-casted issues are sufficient enough to decide the real controversy between the parties. The proposed additional issues are not required to decide the controversy between the parties. As per the order 14 rule 1 CPC the issues will arise only in case of materials propositions of fact or law is affirmed by one party and denied by the other party. The proposed additional issues is containing the facts, which are stated by the defendant are not the material propositions basing on which an issue is required to be framed. Hence I am of the opinion that those proposed additional issues are not required to determine the real controversy existed between the parties, Hence I proceed to hold Point No.1 in the negative.

13.Point No.2 : For the foregoing reasons this court proceeds to pass the following:



ORDER

I.A No. 22 filed by the legal representatives
of defendant under order 14 Rule 5 of CPC is
hereby dismissed with cost of Rs.200/-.

*(Orders dictated to the stenographer on-line computer, computerized by
her, revised, corrected and then pronounced by me in open court on this
11th day of **December 2025**)*

Sd/-
(KIRAN S.P.)
Prl. Civil Judge & JMFC.,
Gubbi.