

Order below Exh. 29 IN RCS No. 07-2010

1] This is an application filed by defendants for recasting issues.

2] Perused the application. Plaintiffs failed to file say hence, application proceeded without their say. Heard Ld. Advocate for defendants.

3] It is contended by defendants that, they have filed their W.S. below Exh.19 and 21. They have specifically denied contentions of the plaintiffs. They have taken objection of valuation, limitation and non-joinder of necessary parties. However, issues with that respect were not framed. Hence, prayed to frame issues mentioned in this application and also prayed to delete issue no. 2.

4] It appears from the record that, the present suit is for partition, declaration and separate possession. Perusal of the W.S. goes to show that, in para no. 6 defendants no. 1 to 7 raised the objection of valuation. In para no. 12 they raised the objection for non-joinder of necessary parties. However, the issue of valuation and non-joinder of necessary party could not be framed.

5] As far as issues of limitation and jurisdiction is concerned, defendants denied the relationship with plaintiffs. Per contra, plaintiffs are claiming to be relatives of defendants. Thus, issues of limitation as well as jurisdiction will not arise. My Ld. Predecessor as framed the issues below Exh.27 properly thus,

the issue no. 2 need not be deleted. However, in order to decide the real dispute in the controversy and in view of Order 14 Rule 5 of the CPC, issues of valuation and non-joinder of necessary party needs to be framed. Hence, I proceed to pass following order.

ORDER

- 1] Application is hereby allowed.
- 2] Necessary issues will be framed below Exh.27

Date : 23/11/2016

Sd/-
(Y.J.Tamboli)
2nd Jt. C.J.J.D., Khed

Recasting issue

In view of order passed below Exh.29 following issues are framed.

3A] Whether the suit is under valued?

3B] Whether the suit is bad for non-joinder of necessary parties?

Date : 23/11/2016

Sd/-
(Y.J.Tamboli)
2nd Jt. C.J.J.D., Khed