

ORDERS ON I.A.No.XXIII

Counsel for defendant No.12 filed the I.A.No.XXIII under Order XIV Rule 5 of C.P.C. and requested to frame the Additional Issues which are noted in the application.

Plaintiff filed the objection and opposed the application.

2. Heard. Perused the papers. Taken the following points to adjudicate the application.

1. Whether framing of additional issues is necessary?

2. What order?

3. Answers to the above points are as under:

Point No.1: In the affirmative:

Point No.2: As per final order

for the following:

REASONS

4. At the outset this suit is filed by the plaintiffs by claiming the share in the disputed properties and details of

accounts from the defendant No.11. Counsel for Defendant No.12 filed the memorandum of facts and stated that, in the light of contention taken in para No.4,6,10,12 and 14 of the written statement, framing of additional issues are necessary.

5. In the objection, plaintiff contended that, subject matter of O.S.No.38/2014 is completely differ from the present suit. Defendant No.12 colluded with defendant No.11 and submitted that, though the property was purchased by Radamma Shedthi, Sundar Shetty, Krishna Shetty and Gundu Shetty. They are not made any arrangement in respect of their share in the suit properties. After death of Gundu Shetty, plaintiffs demanded share in the disputed properties. Defendants refused out ride to divide the properties. Radamma Shedthi had no independent source of income to purchase the disputed properties. Framing of additional issues is not necessary.

6. The contention of respected counsel for defendant No.12 is, for the pleadings pleaded in para No.4,6,10,12 and 14. Framing of additional issues are necessary. On the other hand, the contention of plaintiff is, Radamma Shedthi was not having an

independent source to purchase the disputed property. Radamma Shedthi colluded with defendant No.11 stated wrongly. On reading of written statement of defendant No.12, defendant No.12 has taken the contention that, even the disputed property purchased by Radamma Shedthi and her 4 childrens, the 4 children were not invested any amount. The 4 children were not having source of income to invest. Such being the circumstance, it is necessary to decide whether disputed property was purchased by defendant No.12 exclusively. To decide the same framing of issues is necessary. Defendant No.12 also has taken the contention that, all the properties were not included. Such being the case, it is necessary to divide the suit of the plaintiff is maintainable as partial partition. For these reasons in the opinion of this court framing of additional issues is necessary. As such, answered **point No.1 in the affirmative.**

Point No.2

7. In view of the above discussion, pass the following:

ORDER

I.A.No.XXIII filed by the defendant No.12 under Order XIV Rule 5 of C.P.C. is hereby allowed on cost of Rs.200./-.

Additional issues are framed.

Plaintiff evidence if any after framing of additional issues.

