

ORDER BELOW EXH.56 IN R.C.S. NO.567/2012.

This application is filed by the defendant Nos.1 to 8 contending that, the issues framed at Exh.53 are required to be recasted. Defendants raised objection in their written statement in respect of limitation of the suit So also non-joinder of necessary parties. So also there are some corrections are required in the issues already framed at Exh.53.

2. Plaintiffs opposed this application by filing say at Exh.58. They have denied all the contentions of the defendants. It is contention that there is no bar of limitation to the suit. So also all the necessary parties are made in the suit. So also it is further contended that whatever corrections proposed by the defendants are not required. If they allow the nature of the suit will be changed. Pray for rejection of this application.

3. Heard both sides. Perused plaint and written statement. The plaintiffs have filed this suit for the partition, separate possession and perpetual injunction. So also defendants have filed their counter-claim. Perused issues framed at Exh.53 in issue No.1, 3 and 4 burden has not been shifted either on the plaintiffs or the defendants. So also defendants have raised objection regarding the limitation so also non-joinder of necessary parties. So recasting of issues are required. So considering pleadings of the parties and contention of the parties

following issues are recasted.

ISSUES

- 1] Do plaintiffs prove that suit properties are ancestral properties of plaintiffs and defendant Nos.1 to 8 ?
- 2] Do defendant Nos.1 to 8 prove that suit properties are owned and in possession of the defendant Nos.1 to 8 and it was already partition ?
- 3] Does defendant No.9 prove that he became owner by virtue of sale-deed dated 17/4/1971 of block No.485 adm.0.42R ?
- 4] Whether the suit is bad for non-joinder of necessary parties ?
- 5] Whether the suit is within limitation ?
- 6] Whether the plaintiffs are entitled for partition and separate possession ?
- 7] Whether the plaintiffs are entitled for perpetual injunction ?
- 8] Whether the defendant Nos.1 to 5 are entitled for declaration and perpetual injunction as prayed for ?
- 9] Whether defendant No.9 is entitled for compensatory costs of Rs.3,000/- from plaintiffs ?
- 10] What order and decree ?

Sd/-

Dt.24/11/2016

(K. P. Jain Desarda)
3rd Jt. Civil Judge, S.D.
Sangamner.