



**Common order passed below Exh. 126 & 131 in R.C.S./200079/2013**  
**Bhausahab Bhivaji Tribhuvan Vs. Shamlata Madan and Ors.**

01. In the present suit the plaintiff has filed this application for issuance of notice to all defendants for appearances of defendants for counter-claim filed by defendant No.9.

02. The counterclaim filed by defendant No. 9 and prayed for declaration but in present suit defendant No.8, 10, 15 to 17, 22 and 38 exparte order passed against them and defendant No. 2,3,5,7 exparte order passed against them. Hence prayed for issuance of summons to all defendants in counter-claim for deciding the counter-claim filed by defendant No. 9.

03. Say called from defendant No.9 and he submitted that the application is not true and correct and strongly objected. Original suit is not maintainable. Since 2013 till today no summons issued to all defendants and matter is pending on same stage. He has filed the counter-claim against original plaintiff. Hence prayed for reject the application.

04. Perused the record of the case and applications filed by the plaintiff vide Exh. 126 and 131 and pursis filed by defendant No. 9 Exh. 122. Vide pursis Exh.122 defendant No.9 prayed to delete the names of defendant No. 2 to 8, 10 to 40 from the counter-claim. The present suit is filed by the plaintiff for partition, perpetual injunction in respect of the suit property. Considering the prayer of the plaintiff and pursis filed by defendant No.9. When counter-claim filed by defendant No.9 and also filed pursis to delete the names of defendant No. 2 to 8 and 10 to 40 from the counter-claim then

in such a circumstances there is no necessity to issue summons to the defendants for counter-claim. Hence, I proceed to pass following order-

**ORDER**

Application Exh. 126 & 131 are hereby rejected.

Date:- 22/08/2019

**(V.A. Lavand-Kokate)**  
4<sup>th</sup> Jt. Civil Judge J.D.,  
**Rahata**