

ORDER BELOW EXH.43 IN R.C.S. No. 151/2018

1. Defendant no.1 in present suit has placed this application for framing of an additional issue pertains to valuation of suit, adequacy of court fees and limitation to institute the present suit. Plaintiff has strongly resisted the application by filing her say. Perused the application and say. Heard, Ld. Pleaders appearing on behalf of both the parties. On perusal of written statement at Exh.30 submitted by the defendant no.1, it appears that in para no.16 of his written statement, defendant no.1 has specifically pleaded that plaintiff has neither properly valued the reliefs claimed, nor he paid adequate court fee stamp. As through his written statement, defendant no.1 has raised an objection pertains to valuation of the suit as computed by the plaintiff and court fees paid by him, separate issue pertains to valuation of the relief claimed and court fees paid by the plaintiff, is required to be framed.

2. On perusal of written statement at Exh.33 submitted by defendant no.2, it appears that in para no.2 of his written statement, defendant no.2 has specifically pleaded that as present suit is barred by the law of limitation, same is liable to be dismissed. As through his written statement, defendant no.2 has raised an objection pertains to limitation for instituting the present suit, being mixed question of law and fact, an objection raised by defendant no.2 through his written statement pertains to limitation for instituting the suit, is essential to be resolved by

framing the separate issue to that regards. So far as burden to prove that, suit is barred by the law of limitation is concerned, as through his written statement, defendant no.2 has raised an objection that the suit is barred by the law of limitation, burden would be upon the shoulder of the defendant no.2 to prove that, the suit is barred by the law of limitation. Hence, I pass following order :-

ORDER

1. Application at Exh.43 is allowed.
2. Following additional issues are hereby framed on Exh.35.

“5A] Whether the plaintiff has properly valued the relief claimed and paid adequate court fee stamp ?

5B] Does the defendant no.2 prove that the suit is barred by the law of limitation?”

Shrigonda
Date: 03/01/2026

(H. J. Pathan)
2nd Jt.Civil Judge(S.D.) Shrigonda