

ORDER BELOW EXH. 1
(Passed on 07.10.2025)

Perused the record of this suit. It appears that the issues are framed by my learned predecessor in office, as per Exh. 48.

2. Upon a comprehensive examination of the record, it is found that my learned predecessor in office did not distinctly delineate or segregate the material questions of law and fact. The issues originally framed, therefore, appear to be imprecise and lack the requisite clarity necessary for an effective adjudication of the real matters in controversy. The formulation of such issues, being clumsy and overlapping in nature, has consequently led to ambiguity regarding the scope and determination of the respective rights and liabilities of the parties.

3. Upon scrutiny of the pleadings and the subject matter involved, it becomes clear that additional and distinct issues are required to be framed to ensure a proper and comprehensive determination of the dispute. Specifically, there is a necessity to frame the separate issues in relation to the declaration of tenancy rights claimed by the plaintiff; the declaration of possession asserted and its legal sustainability, and the procedure and due process of law to be followed concerning the reliefs of declaration sought in the suit.

4. Moreover, this Court deems it expedient to consider the framing of an additional issue regarding the joinder of the Chief Executive Officer (CEO) or the duly authorized delegate of the CEO of the concerned Zilla Parishad as a party defendant. This is warranted since the CEO, under the statutory framework, is the competent authority to regulate, supervise, and approve matters

about the grant, lease, alienation, or transfer of immovable properties belonging to the Zilla Parishad. The determination of such an issue will ensure that all necessary and proper parties are before the Court, thereby avoiding any procedural infirmity or future challenge on grounds of non-joinder.

5. Although it is acknowledged that the suit presently stands at an advanced or terminal stage of trial, the framing of the aforesaid additional issues is nonetheless essential for a fair and just adjudication. The objective is to settle the actual controversy between the parties in its entirety rather than allowing a decision to rest upon incomplete or inadequately framed issues. In this regard, reference may be made to Order XIV Rule 5 of the Code of Civil Procedure, 1908, which empowers the Court to amend or frame additional issues at any stage of the proceedings. The Rule underscores that the Court may, at any time before passing a decree, amend existing issues or frame new issues as may be necessary for determining the matters in controversy between the parties. This provision embodies the principle that the procedural law should serve the ends of justice and not operate as a fetter upon the Court's duty to ensure a complete and effective adjudication of the dispute.

6. The exercise of power under Order XIV Rule 5 CPC is thus not restricted by the stage of the suit. Even if the trial has advanced considerably, the Court retains inherent jurisdiction to frame further issues if it appears that the originally framed issues do not encompass or completely address the disputes requiring determination. The purpose of this rule is to secure a full and fair trial by bringing clarity to the real questions in controversy, thereby preventing multiplicity of proceedings and ensuring that no material aspect of the case remains unexamined. Therefore, in view of above overall discussed aspects, in the interest of justice for the proper and

complete adjudication of dispute involved between the parties of this suit and also for conclusive determination of the controversies between the parties of this suit it would be just and proper to direct the both parties to advance their submissions and address the court specifically on the necessity and propriety of framing the issues as stated above. Further, it appears that due to the said exercise, the multiplicity of proceedings can also be avoided, and this very old suit can be properly and completely decided by this court. Hence, I pass the following order.

ORDER

1. The respective learned advocates for the parties are hereby directed to advance their submissions and address the Court specifically on the necessity and propriety of framing the additional issues in relation to (i) the declaration of tenancy rights claimed by the plaintiff; (ii) the declaration of possession asserted and its legal sustainability and (iii) the procedure and due process of law to be followed concerning the reliefs of declaration sought in the suit, including the proposed joinder of the CEO or his delegate as a party defendant, in light of the pleadings and evidence on record.

2. Keep the matter on the next date of this suit for hearing the respective learned advocates of the parties with respect to the framing of the proposed additional issues.

Date : 07/10/2025.

(**Mahesh S. Kale**)
Civil Judge (Sr.Dn.), Akot.