

MHAU050018432018



**RCS No.357/2018**  
**Laxman Vs. Mathurabai**

**ORDER BELOW EXH.34 IN RCS NO.357/2018**

Plaintiff moved the present application for recast of issue.

2. According to plaintiff burden needs to be casted on defendants in respect of their claim of ownership and possession. However, issue in this regard is not framed. Hence this application. Plaintiff prayed to allow the application.

3. Say was called but say is not filed. Hence application proceeded without say of defendant.

4. Issues are settled for appropriate conduct of trial of the suit. Order 14 of CPC provides for settlement of issues. It is well settled that where party is claiming any relief; burden to prove its claim is on the said party. Burden of proof and shifting of burden to prove are two different things.

5. In the present case, plaintiff prayed for relief of declaration that sale deed no. 4240/2018 dated 01.08.2018 is invalid, illegal and void-ab-initio. Burden to prove its claim is on plaintiff and my learned predecessor has framed issue in this regard at **Exh.17**. I am of the view that the objection raised by plaintiff pertains to shifting of burden which is subject matter of trial on merit and cannot be considered at this stage. Hence, application is misconceived one and is not tenable in law. Hence, application is rejected.

Date : 08.11.2024.

Place: Vaijapur.

[ **Smt. V.R. Kulkarni** ]

3<sup>rd</sup> Jt. Civil Judge (J.D.),

Vaijapur.

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**C E R T I F I C A T E**

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer : R.J.Jadhav,  
Court : 3rd Court, Vaijapur.  
Date : 08.11.2024.  
Order digitally signed by the presiding  
officer on : 11.11.2024.  
Order uploaded on : 11.11.2024.