


<p>MHAU110001762016</p> 	<p><u>ORDER BELOW EXH. 90</u> <u>IN RCS NO. 18/2016</u> (Sulochanabai Chavan Vs. Auchitrao Chavan)</p>
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Present application filed by original defendants to frame additional issue vide Order 14 Rule 5 of Code of Civil Procedure.

02. According to defendants, they filed a counter claim for redemption of mortgaged and suit for specific performance of contract based on agreement dated 12.05.1999 and 15.10.1998. The original defendants filed W.S. along with counter claim. But inadvertently alternate relief of specific performance of contract remained to be added to the counter claim. Therefore, the defendants filed amendment application and said was allowed. However, no issue regarding specific performance of contract as per amendment was not framed. Hence, plaintiff prayed for additional of the above issue.

03. Plaintiff filed say at Exh.94 and resisted the application. According to plaintiff without any specific pleading only to prolong the matter defendant filed this application. The evidence of both the parties already closed. Only to prolong the matter an harass the plaintiff, defendant filed this application,. Hence, plaintiffs prayed for rejection of application.

04. Heard Ld. Advocate for defendants and plaintiff.

05. On perusal of record it appears that, defendants filed his W.S. at Exh.21 and along with filed counter claim against the plaintiff. As per order passed below Exh.44 the counter claim was amended. Thereafter, plaintiff filed his say with the counter claim. Both the parties are closed their evidence. The plaintiff wants to framed additional issue regarding.

1. Whether the defendants (Plaintiff in counter claim) is entitled to alternate relief of specific performance of contract as prayed for ?

06. All the questions are comprehensively decided in one case regarding objection raised by one party and denied by other. They additional issue are relevant for adjudication of present suit. Hence, to decide present suit on merit and all the questions raised by both the parties. The additional issue regarding specific performance of contract needs to be framed. Hence the order -

<u>ORDER</u>	
1.	The application is allowed.
2.	The additional issue- 12. Whether the defendants (Plaintiff in counter claim) is entitled to alternate relief of specific performance of contract as prayed for ?
3.	Sr.No. of issues are rearranged.

Date :09/01/2026.

(Chandrakant R. Patil)
Jt. C.J.J.D. Phulambri.