



**ORDER BELOW EXH.72**

Under this application, the plaintiffs have urged to delete issues at Sr.No.4, 5, 7 & 9 casted vide Exh.71. According to them, those four issues are irrelevant and not required for the just decision of the case. Likewise, those issues are not in consonance with the pleadings made by the plaintiffs and contesting defendants. Hence, they urged to allow application.

2. Defendant No.12 has opposed application by filing say on leaflet itself. She has sought liberty to raise appropriate points while tendering an argument on this application. As such, she urged to reject application.

3. Defendant No.3, 4, 5, 8, 10 & 11 have filed say on leaflet itself and thereby urged to pass an appropriate order.

4. Defendant No.13 has opposed application by filing say at Exh.76. She submits that, the court has already casted issues at Exh.71 by taking into consideration the pleadings made by the plaintiffs and contesting defendants. Those four issues are also casted in terms of pleadings made by those parties. The some of the parties are Government Officials. However, the suit is instituted without giving mandatory notice under Section 80 of the Code of Civil Procedure, 1908. The concerned Sub-Registrar, who registered will deed in question, did not make party, though necessary one. Hence, he urged to reject application.

5. Heard, the learned advocate Shri. S. R. Kulkarni, for the plaintiffs and Mr. A. M. Kulkarni, for the defendant Nos.3, 4, 5, 12 and 13. They have argued almost all the facts, which are pleaded by their respective parties, as mentioned supra. None appeared on behalf of the remaining contesting defendants, though reasonable time given. On considering the nature of the suit and application, it taken up for disposal on merit.

6. Perused application, say of those defendants and record of the case, minutely. I have given anxious thoughts towards an argument advanced by the learned advocates for aforesaid parties. Needless to say that, in civil suit issues arise when material prepositions of facts or law as affirmed by one party and denied by other party. Each material preposition affirmed by one party and denied by other shall form subject matter of distant issue. The plaint pleadings show that the plaintiffs have challenged genuineness of alleged registered will deed bearing No.4683/2001 dated 06/10/2001 on being defendants had alleged to have executed the same in collusion with each other and when mental state of mind of deceased Gangadhar Taur was not sound etc. The contesting defendants have denied those allegations. On perusal of plaint pleadings and defendants pleadings of those defendants, it seems that issue No.4, 5 and 7 are irrelevant and words "illegal, as alleged" require to be replaced by deleting sentence out of issue No.2 i.e. "prepared for -----8 to 13".

7. In view of foregoing discussion, I found partial substance in the application, as observed supra. Defendant Nos.17

to 19 are Government Officials and the suit seems to have instituted against them without seeking leave for institution of the suit by waiving mandatory suit notice under Section 80(2) of the Code of Civil Procedure, 1908 and/or Section 304 of the Maharashtra Municipal Corporations Act, 1949, respectively. Thus, issue No. 9 cannot be termed as irrelevant one. As such, the application deserves to be partly allowed. In the result, I pass the following order.

**ORDER**

- 1) The application (Exh.72) is partly allowed.
- 2) Issue Nos.4, 5 and 7 casted vide Exh.71 be deleted and the words "illegal, as alleged" be replaced instead of sentence in issue No.2 as "prepared for -----8 to 13" under Order-XIV, Rule-5 of the Code of Civil Procedure, 1908.
- 3) The costs in main cause.

Date :- 17/07/2025.

(S. S. Budruk)  
Civil Judge Senior Division,  
Majalgaon.

**CERTIFICATE**

The contents of above order is/are word to word same and found correct in this pdf.

Dictated on : 17/07/2025.  
Typed on : 17/07/2025.  
uploaded on : 17/07/2025.

Sd/-  
(H.B.Suryawanshi)  
Steno-Gr.II  
C.J.S.D.Majalgaon.