

ORDER BELOW EXH. 110 R.C.S.NO.145/2009
Sumanbai Vs. Tatyaba
(CNR.NO.MHBI-1100-2442-2009)

Defendant No.2 has filed an application under Order XIV Rule 5 of the Code of Civil Procedure, seeking the framing of additional issues in the present suit. The contention of defendant No.2 is that he has sold certain ancestral properties, but the purchasers and the said properties have not been included in the present suit. Therefore, he argues that it is necessary to frame issues regarding the effect of such transactions and the non-joinder of the purchasers.

2. Plaintiff No.1 has opposed the application by filing a say at Exh.111, contending that the application is merely an attempt to delay the proceedings. It is further contended that the suit has been pending since 2009 and has already been decided once before. Plaintiff No.1, being aged and unwell, has emphasized the need for an expeditious disposal of the suit. Based on these grounds, plaintiff No.1 has prayed for the rejection of the application.

3. Heard both sides and perused the record. Perused written argument submitted by Ld. advocate for defendant no. 2. It is evident that defendant No.2, in his written statement, contended that he had alienated certain ancestral properties. The additional issues proposed by defendant No.2 primarily relate to legal questions, including whether the purchasers of the sold properties are necessary parties and what impact the exclusion of such properties would have on the present suit. The determination of these questions requires adjudication, which will be appropriately addressed during the final hearing. The framing of additional issues will not prejudice plaintiff no. 1.

4. The provisions of Order XIV Rule 5 of the CPC empower the court to amend or frame additional issues at any stage of the proceedings if it is necessary for determining the real controversy between the parties. Given the nature of the defense raised, the court finds that framing additional issues will facilitate a just and complete adjudication of the matter. In view of the aforesaid discussion, the application filed by defendant No.2 deserves to be allowed. Accordingly, the following order is pass-

ORDER

1. The application at Exh. 110 is allowed.
2. The following additional issues are hereby framed after issue no. 4A.
 - 4B. Whether the suit is barred by non-joinder of necessary parties?
 - 4C. Whether the plaintiffs have brought all joint family and ancestral properties in the suit? If not, what is the effect of it?

Date :- 25/02/2025.

(R. R. Jadhav)

4th Jt. Civil Judge J.D., Georai.

CERTIFICATE

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

Dictated on :- 28-02-2025

Transcribed on :- 28-02-2025

Checked & Signed on :- 28-02-2025

Sd/-
(P.B. Kusumkar)
Stenographer G-3, Georai.