

Order Below Exh.39

1. Perused application filed by the Disputant for recasting of the issues and its reply by Opponent No. 2 at Exh. 40.

2. In short contention of the Applicant that, the Opponent No. 2 after remanding of the case by the Hon'ble Appellate Court filed written statement in which he has raised the objection about Plot No. 78 only. He has never objected about Plot No. 13 in respect of which issues framed by this Court. As objection is only in respect of Plot No. 78 the question doesn't arise to frame any issue with regard to Plot No. 13 in the Opponent No. 1 Co-operative Housing Society. So, he prayed to recast the issues. The Opponent No. 2 contended that, the issues framed as per their written statement. So, question doesn't arise to recast any issue as framed by the Court.

3. After hearing arguments I have gone through again pleadings of both the parties. It is admitted position that, in the Hon'ble Appellate Court previous decision of this Court is totally set aside and matter remanded back for trial. In case of the Disputant he has claimed possession and / or ownership of Plot No. 13 and 78 whereas in Para No. 11, Exh. 17 written statement of Opponent No. 2 he has specifically denied the fact that, Disputant is legal owner of both plots. So, the material preposition raised by Disputant clearly denied by the Opponent hence, the issues with

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regard to both plots not appears to be incorrect. Further, the Court can also look into veracity of the facts put up before it. The Opponent No. 1 Society appears to be represented through liquidator who appears to failed to file his written statement but in its say at Exh. 18 they clearly denied the allegations of the Disputant herein. In such situation the Court required to go into the real factual position agitated before it with the help of evidence of both the parties. Therefore, in my opinion there is no need to recast any issue as framed by this Court eventhough, Opponent No. 1 failed to file their written statement. Therefore, I inclined to pass the following order :-

Order

1. The application stands rejected.
2. Accordingly, application is disposed off.

Sangli

Date: 16/06/2026

(Smt. A. J. Patil)

Judge,

Co. Op. Court No. 2, Sangli