



**Order below Exh. 81 in R.C.S. No. 37/2015**

This is an application filed by the plaintiff herein praying for framing of an additional issue.

02. Heard learned advocates for both the parties. Perused the application and say filed in reply. Perused record of the case.

03. In short, it is submitted by the plaintiffs that the defendant no. 1 has claimed that the suit property was gifted to her by her father by way of oral gift. However, no issue with regard to same has been framed. Hence, it is prayed that the application may be allowed and issue may be framed accordingly. On the other hand, in short, it is submitted by the defendants that the issues are framed long back and the matter is for cross-examination. The present application is filed by the plaintiff to harass the defendants and create complications. The plaintiff has to prove his case and cannot cast burden on defendant by way of proposed issue. Hence, it is prayed that the application may be rejected.

04. This is a suit for partition and separate possession. A perusal of plaint would reveal that the plaintiffs claim the suit property to be initially owned by the husband of plaintiff no. 1 and father of

plaintiff no. 2 and defendants nos. 1 and 3 to 5 namely Ibrahim Ismail Pinjari. They have prayed for partition of the suit property and for separate possession of their respective shares in the same. On the other hand, a perusal of written statement (Exh. 12) filed by the defendants nos. 1 and 2 would show that they have contended that the suit property was self acquired property of deceased Ibrahim. It is further contended that in the year 1999 said Ibrahim had gifted the suit property to defendant no. 1 by way of an oral gift and that the same is now owned and possessed by her. Thus, from the aforesaid rival pleadings of the parties it is clear that they are at variance with regard to the ownership of the suit property. Therefore, in order to finally determine the matter in controversy between the parties, it would be appropriate to frame an issue with regard to the aforesaid material proposition of fact alleged by the defendants nos. 1 and 2 vide O. 14 R. 5(1) of the Civil Procedure Code. Hence, the following order is passed-

**:- ORDER :-**

- i. The application is allowed.
- ii. Accordingly, the issue no. 2-A is additionally framed at Exh. 33 vide O. 14 R. 5(1) of the Civil Procedure Code.

Place: Dondaicha  
Date : 15/11/2024

(Aditya G. Naik)  
Civil Judge Junior Division, Dondaicha

**CERTIFICATE**

It is certified that the contents of the present PDF file are true and correct as per the original signed order/judgment.

Name of stenographer : Ganesh S. Ahire,

Name of Court : Civil & Criminal Court, Dondaicha.

Date : 15/11/2024

Sd/-  
Stenographer (Grade-3)