



**ORDER BELOW EXH.138**

This is an application filed by the defendants for framing of additional issues. It is the contention of the defendants that, they have filed written statement wherein, they have specifically denied the claim of the plaintiff and prayed to dismissed the suit in terms of their adverse possession. It is specifically contended by the defendants that they have pleaded in para no.11 of their written statement that, the defendants have perfected their title by way of adverse possession and became the absolute owner of the suit property. The ground taken by the defendants about the adverse possession requires to frame separate issue while deciding the suit. Therefore, prayed for framing of additional issue on the point of adverse possession.

02. The plaintiff filed his say at Exh.139 and denied the prayer of the defendants. It is the submission of the plaintiff that, he has purchased the suit land by way of registered Sale-Deed in 1997 and taken possession of the suit land after the Sale-Deed. Moreover, the defendants have not filed any counter claim for their claim of the adverse possession or the defendants have not challenged the Sale-Deed during the cross-examination of the plaintiff. The suit is at the stage of final argument, thus the application made by the defendants is liable to be rejected.

03. Perused the application, say filed by the plaintiff and heard both the sides at length. From the bare perusal of the plaint, it is seen that this is the suit for declaration that the plaintiff is the owner of the suit land. Both the parties have already concluded there evidence and the case is at the stage of final adjudication. This court has already re-casted some issues on 13.03.2018 prior to that the issue were framed on 28.04.2011. This court has framed issues as follows:

1. Whether disputed Sale-Deeds dated 17.09.1997 are absolute sale or security bonds loan advance ?
- 1-A. Whether the plaintiff proves that, he is owner in possession of the suit property ?
2. Does the plaintiff prove that the defendants after purchase of suit lands started obstructing in his possession by demanding further money ?
3. Is the court having jurisdiction to entertain and try the suit?
4. Is the suit within Limitation ?
5. Whether the suit is barred in view of provisions of Order 2 Rule 2 of Civil Procedure Code ?
6. Whether the findings in RCS no.90/2003, RCS no.442/2007 and RCA no.2/2005 operated as resjudicata ?
7. Is the plaintiff entitled for reliefs sought ?
8. What order and decree ?

And the proposed issue is “whether the defendants have perfected their title as absolute owner over the suit land by way of adverse possession as claim ?”. From the perusal of the earlier issues it transpires that issue no.1 is a pervasive and wholesome issue. Similarly issue no.2 completely reflects the bone of the contention between the parties. It is important to notice that there is no counter claim by the defendants. In these circumstances, no relief by adjudication is to be provided to the defendants. Hence, the proposed issue is beyond the scop of adjudication though it has been pleaded in

the written statement, it is beyond scop of adjudication.

04. Another aspects is that, when the parties have already under gone the trial and have lead their elaborated evidence, knowing their rival claims well, even if issue is no issue on such point, no prejudice will be caused to the parties and the court can answer their rival claims even otherwise on the basis of pleading of the parties and the evidence on record. In view of the above, I found no merit in the application. Hence, the application is deserves to be rejected. Thus, I pass following order.

**ORDER**

1. Application is rejected.

Sd/-

Jalna.

**(Smt. S. N. Pund)**

Date : 22.09.2025.

**3<sup>rd</sup> Jt Civil Judge Junior Division, Jalna.**

**CERTIFICATE**

“ I affirm that, the contents of this PDF file are word to word as per original order ”.

Name of Steno	:-	U. R. Dasare
Name of Court	:-	3 <sup>rd</sup> JMFC. Court, Jalna.
Date of PDF	:-	24.09.2025.

Sd/-  
Signature of Stenographer.