

MHJN020008962014



ORDER BELOW EXH.136
(Passed on 07.04.2025)

. The defendants have filed present application for re-casting of issues. It is submitted that, the plaintiffs have pleaded that mother of plaintiff no.1 i.e. Nanbai had executed general power of attorney in favour of her husband Gansi to look after the property and also authorizing him to transfer the entire area of 1H 60R to her daughter and grand-daughter i.e. to plaintiffs. It is further pleaded that husband of Nanbai on the basis of said authority moved an application for mutation of said land in the revenue record in the name of plaintiffs by filing necessary documents. Therefore, issues in that respect needs to be framed casting burden upon the plaintiff.

2. On the contrary, learned advocate for plaintiff has filed say vide Exh.137 and submitted that the issues proposed by defendants are already covered in the issues framed by the court and therefore, there is no need to frame additional issue. On the contrary, the plaintiffs have already filed application to re-cast the issues as per pleading and evidence adduced by both parties. Therefore, application filed by defendants is liable to be rejected.

3. Heard learned advocates of both parties and perused

record. Already final argument heard on behalf of plaintiff and suit was fixed for argument on behalf of defendants. However,during argument learned advocate for both parties have noticed that there are three suits filed by plaintiffs. In all the three suits issues are different.

4. It is not disputed that the plaintiffs have filed three suits against the defendants i.e. Spl. C. S. no. 61/2014 (Lata+1-Vs-Vipulkumar+2), Spl.C.S. no.63/2014(Lata+1-Vs-Hitendrakumar+2), Spl.C.S.no.64/2014(Lata+1-Vs-Shailesh Puri+1). All the three suits are pending before this court for argument. The plaintiffs have claimed in all the three suits declaration of ownership of suit plot, the sale-deed of suit plot executed by defendant no.1 in favour of defendant no.2 is null and void and not binding upon the plaintiffs and perpetual injunction against the defendants. The plaintiffs have claimed ownership and possession over the suit property on the basis of revenue entries recorded on the basis of application filed by husband of Nanbai Gansi Visriya.

5. At the same time, the defendants have claimed ownership on the basis of registered sale-deed executed by Premaji Gansi in favour of defendant no.1 in all suit. However, there are no specific issues in that respect. Moreover, issues in all three suits are different. Therefore, considering the pleading, evidence and submission of both parties, the issues already framed needs to be corrected and re-casted in proper manner and sequence. Therefore, application filed by defendants deserves to be allowed with the following order.

ORDER

1.	Application filed by defendants vide Exh.136 is hereby allowed.
2.	The issues already framed vide Exh.45 are being re-casted.
3.	Both parties have liberty to adduce evidence in respect of re-casted issues if any.
4.	Application is accordingly disposed off.

Date:-07.04.2025

(Madhuri R.Khanwe)
2nd Jt.Civil Judge (Sr.Divn.)
Jalna

CERTIFICATE

I stated that the contents of this PDF file are word to word as per original

Order.

Name of Steno : *Pratiksha B. Magare.*
Name of Court : 2nd Jt.Civil Judge(Sr.Divn.),Jalna
Date of PDF : 07.04.2025

Steno.