

MHKO070002992022



ORDER BELOW EXH.23 IN Spl. C. S.
NO.22/2022.

Lingraj Ramchandra Keripale

Vs.

Ravikaran Mohan Tavadare

The defendant has filed the present application under Order 14 Rule 5 of the Civil Procedure Code for striking out the issue no.2 framed at Exh.10. The plaintiff has filed his say and objected the application.

2. Heard both sides. Perused the record. Learned advocate for the defendant has submitted that the plaintiff has filed the present suit for specific performance of the contract. The plaintiff has not sought any relief based on tenant and landlord relationship between the plaintiff and the defendant. Hence, in the present suit, it is not necessary to decide the existence of relationship of landlord and tenant between him and the plaintiff. Therefore, he has prayed to strike out the said issue. On the other hand, learned advocate for the plaintiff has submitted that the plaintiff has made the specific pleading about the existence of relationship of tenant and landlord between the plaintiff and the defendant. Therefore, the issue framed by the Court is proper. Hence, he has prayed to reject the application.

3. On perusal of record, it appears that at Sr.no.2 below Exh.10 following issue is framed.

2. Whether the relationship between plaintiff and defendant as tenant and landlord is in existence in respect of original suit property i.e., C.T.S. No.1216 ?

4. The defendant has filed the present application to delete the above mentioned issue. On perusal of record, it appears that the plaintiff has filed the present suit for specific performance of agreement

to sell executed by the defendant in favour of the plaintiff on 26.11.2018. He has not sought any relief based on pleading that the relationship of landlord and tenant was in existence between him and the defendant regarding the C.T.S.No.1216. As the plaintiff has not sought any relief based on the alleged relationship between him and the defendant, the decision of the present case is not depend on the said issue.

5. Admittedly, the purpose of framing issue is to make the focus on real dispute between the parties, to prevent unnecessary evidence and to expedite the disposal by narrowing the scope down to what is truly contested. Moreover, as per Order 14 Rule 1(5) of Civil Procedure Code, the Court can frame the issues on which the right decision of the case appears to depend. It means that it is not necessary to frame issues merely on the ground that the plaintiff has made pleading regarding the same. As discussed above, framing of issue no.2 is not necessary for the right decision of the present suit. Hence, it is just and proper to strike out the said issue. Therefore, the application is deserves to be allowed. In the result, I pass following order :-

ORDER

1. Application (Exh.23) is allowed.
2. The issue framed at Sr.No.2 below Exh.10 is hereby strike out.

Jaysingpur.
Date : 12.09.2025.

(P. A. Patil),
Jt. Civil Judge Senior Division,
Jaysingpur.