

MHKO070009872016



**ORDER PASSED BELOW EXH.25**

1. This application is filed by defendant No.2, under Order 14 rule 5 of C.P.C. praying to re-caste issue No. 2 and 3. It is contention of defendant that, plaintiff has come before the court for relief of partition and he has sought declaration that, suit properties are Hindu joint family property of the parties. Therefore, there is no question of putting any burden on defendant to prove that, some of the suit properties are self acquired properties of defendant. Hence, he prayed to delete issue No. 2 and 3 and shift the burden on plaintiff in respect of these issues.

2. Plaintiff filed his say and opposed to allow this application contending that, issues are rightly framed and there is no necessary to re-caste those issues.

3. Heard both side, gone through record. It appears that, considering pleading of plaintiff issue No.1 is framed that does plaintiff proves that suit properties are Hindu joint family

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properties of the parties to the suit. However defendant No.2 has come before the court with the specific case that suit property 1A, 1B and 1C are his self acquired properties. Therefore, burden is on defendant to show that these properties are his self acquired properties. Already initial burden on plaintiff is fixed to prove that entire suit properties are Hindu joint family properties of the parties to the suit. Therefore, issue No. 2 and 3 need not to be deleted or modified. Hence, following order.

**ORDER**

Application stands rejected.

Dt.: 09.09.2019.

( K.G. Sawant )  
Civil Judge Senior Division,  
Jaysingpur.