

**MHKO110000011982**



**Reg. Civil Suit No. 96/1983.**

CNR No. MHKO110000011982

**Order Below Exh.01.**

01. In the present suit, sole defendant filed his written statement vide **Exh.13**. My learned predecessor by considering the rival pleading of both the parties framed issues vide **Exh.15**. Then, during the pendency of the suit, original sole defendant was demised. After that, his legal representatives were brought on record as defendants no.1-A to 1-C. Defendant nos.1-A and 1-B, filed their additional written statement vide **Exh.115**. Defendants no.1-C filed prusis vide **Exh.120** and thereby adopted the additional written statement vide **Exh.115**.

02. On perusing the contents of additional written statement vide **Exh.115**, it is seen that, defendants 1-A to 1-C, contented that, their predecessor has instituted a suit bearing no.Reg. Civil Suit no.1/1983, against the present plaintiff, in Ichalkaranji Court. The said suit was dismissed. By aggrieved that, their predecessor preferred an appeal bearing no. Reg. Appeal No.154/1994 before District Court, Kolhapur. The said appeal was allowed and judgment passed by Trial Court in Reg. Civil Suit no.1/1983 was set aside. Then the present plaintiff challenged the judgment of Hon'ble District Court, passed in Reg. Appeal No.154/1984 by preferring an appeal before Hon'ble Bombay High Court. Hon'ble Bombay High Court dismissed said appeal. So, the order and judgment delivered in Reg. Appeal No.156/1984 attended finality. They further submitted that, the present plaintiff did not challenge the order of Hon'ble Bombay High Court to an other superior Court. So, they further submitted that, as their predecessor instituted a suit bearing Reg. Civil Suit no.1/1983, against the

present plaintiff prior to institution of the present suit, and the previous suit was already decided and the judgment and decree passed in that suit, attended finality. So, the present suit is being hit by the principle of res-judicata.

03. Considering the present contention appearing in the additional written statement of defendants no.1-A and 1-C, I am of the opinion that, it is necessary to frame an additional issue on the point of res-judicata. Hence, I proceed to pass the following additional issue and necessary effect is being given vide **Exh.15** -

**ADDITIONAL ISSUE.**

5-A Whether the suit is hit by principle of res-judicata.

Date : 25/07/2024.

( **L. M. Pathan** )  
Civil Judge Junior Division,  
Peth-Vadgaon.