

R.C.S. No. 5/2015.
Balu (D) through LR. Vs. Shankar
(D) through LR & Ors.
MHKO150000512015.

ORDER BELOW EXH- 124.

Defendant no. 1/c have filed this application for framing additional issues subject to his pleadings. It is contention defendant that, he has specifically averred in his written statement this suit is barred by law of limitation allowing-with hit by the principal of estoppel. Thus, prayed to framed additional issues as prayed in the application for final decision of suit.

2. Plaintiff on same day filled say at corner of the application and prayed to reject the application as no further issues are required. Today he filed detailed say at Exh. 125 and elaborate his prayed. He submitted that, issues were framed at Exh. 120 are just and proper. This defendant after filling W.S. by causing ten years delay to prolong suit filed this application. The present suit is for fixation of boundaries on basis of allotment of area by Government. No principal of estoppel raised and objected prayed of plaintiff. Thus, prayed to reject the same.

3. This court already heard both counsels on last date. Now case is posted for order and plaintiff filed his elaborated say. The defendant in his written statement specifically contended that, the silence of plaintiff over revenue map and entries estoppel him from raising objections. Plaintiff challenge entries at belated stage and therefore raising question of limitation. Both issues are required to be framed. The above issues regarding estoppel and limitation are required as per pleading of defendants.

4. Further, it is settled law that, issues ought to be framed on basis of

material point of fact or law in litigation that is affirmed by one party and denied by other. In *Siddhi Chunilal Vs. Suresh Gopkishan, Second appeal 193/1990 dated 10/07/2009* Hon'ble Bombay High Court observe that, if correct and accurate issues were not framed, it leads to gross injustice delay at waste of the courts valuable time in deciding the matter. Hence considering the pleading of defendant the issue of limitation and estoppel need to be frame. The issue prayed by defendant to frame regarding entitlement of plaintiff regarding final relief is already framed. Hence, this application deserved to be partly allowed. Thus, I pass following order,

ORDER

1. Application stand partly allowed as under.
2. Additional issue 1/a and 1/b are framed at Exh. 120.
3. Parties to take note.



(R. P. Thore)

J.O.Code No.MH02897

Civil Judge, Junior Division,
Ajara.

Place- Ajara.

Date- 03.02.2026.