



ORDER BELOW EXH. 1

This is an application by defendants 1 to 3 for issue recast. As per defendants vide their written statement they have contended that the suit is bad for non joinder of necessary parties. However, issue in this regard is not framed.

2. Further, plaintiff has sought the relief of declaration in respect of a sale deed executed in year 1998. Thus, the suit as far as prayed pertaining to sale deed is concerned is hit by the law of limitation. However, issue of limitation is also not framed, hence this application.

3. Vide their say/ reply plaintiff has denied the contention and prayed for rejection of the application. As per plaintiff the application at Exh. 38 moved by defendant for framing of additional issue on the point of non joinder of necessary parties has already been rejected. Further, vide issue No. 3 the court has conferred burden upon plaintiff to prove that the sale deed dated 04/02/1998 is void abnatio. Plaintiff has also filed his witness affidavit. Thus, now the application for issue recast is not tenable. Ultimately, he has prayed for rejection of the application.

4. Heard both sides. Perused. Vide their written statement at Exh. 21 defendants have contended that the suit is bad for non joinder of necessary parties. Further, they have also contended that the plaintiff has sought the relief of declaration that the sale deed dated

04/02/1998 (Executed by defendant) is void abinito. The suit is filed in year 2009. Thus, in view of the specific prayer pertaining to sale deed suit is barred by law of limitation. However, issue on this line is not framed.

5. Considering pleading by the parties it appears that defendants have disputed the maintainability of suit on the grounds of bar of limitation as well as bar of principle of non joinder of necessary parties. Thus, this court is of view that it is just and proper to frame additional issues on these lines. Hence, following order is passed :-

ORDER

1. Application is allowed.
2. Following issues are framed as additional issues “
 - “ (a) Whether the suit is bar for non joinder of necessary parties ?
 - (b) Whether, the suit is hit by law of limitation ?
 - (c) Hence, this order. “

Date: 16/03/2019

(M. H. Shitole)
C. J. J. D. Radhanagari
Kolhapur

I Affirm that, the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of the Stenographer	U.S.Telang
Name of Court	Civil Judge, Junior Division & Judicial Magistrate, First Class, Radhanagari.
Date of Dictation	16/03/2019
Order signed by the P.O. On	16/03/2019
Order uploaded on	16/03/2019