


MHLA050000602019 	R.C.S. No.07/2019 Anusaya Vs. State
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ORDER BELOW EXH.146

- 01.** Defendant No.5 has filed present application under Order XIV Rule 5 of the Civil Procedure Code,1908 by the plaintiff.
- 02.** According to the defendant, the plaintiff has not sought the order to set aside pension order. She has not objected for long time and has filed suit after the death. So, it is contended that, the issues may be framed.
- 03.** Say is filed by the plaintiff. According to him, the application is nothing but just to prolong the matter. Issues are framed already at Exh.50. The proposed issues are already covered in the earlier issues. The application may be rejected. Ld. Advocate for defendant No.5 submitted written synopsis of arguments below Exh.147. The Ld. Advocate for the plaintiff submitted orally as is mentioned in the say.
- 04.** Ld. Advocate for defendant No.5 Smt. Arati Bembalkar submitted that issues can be framed at any time irrespective of the stage of the suit. She submitted certain citations and contended that the application may be rejected.
- 05.** Ld. Advocate for the plaintiff submitted that the citations are not applicable to the present matter. Issues are already covered. Hence, the application may be rejected.
- 06.** At the outset it is necessary to mention the citations which are as follows ;
- 1) **Church of Christ Charitable Trust and Education Vs. M/s. Ponniamman Education Trust Civil Appeal No.4841 of 2012.**
 - 2) **T. Arvindam Vs. T.V. Satyapal 1977 AIR 2421.**

- 3) **State of Punjab Vs. Gurudeo Singh 1991 (4) SCC 1.**
- 4) **Anathula Sudhakar Vs. P Buchi Reddy AIR 2008 S.C. 2033.**
- 5) **State of Punjab Vs. Dhanjeet Singh Sandhu AIR 2014 S.C. 3004.**

07. As mentioned earlier the application is for addition of issues, the citations referred to are not point of Order XIV. The citations Church (Supra) deals with Order VII Rule 14(1) and (2) and 11(a), which has nothing to do with framing of issues.

08. The citations of T. Arvindam (Supra) is also dealing with Order VII Rule 11 of the C.P.C. It is very much specifically mention in the citations that, “An activist judge is the answer to irresponsible law suit.” The Hon’ble Supreme Court was dealing with order in a suit which was granted by feeling pity on the party to the suit.

09. The citation of State of Punjab (Supra) deals with bar of limitation. The citation may be helpful to the parties at the end of the trial but not at this stage as ratio involved in the citation is regarding the final relief and consequences of not claiming relief.

10. The citation of Anathula (Supra) is regarding suit for permanent injunction. The Hon’ble Supreme Court has laid down guidelines in para No.17 of the judgment. The citation is not given in a complete text by the defendant No.5. So, which part of it is to be made applicable is not answered.

11. The citation Dhanjeet Singh (Supra) is relied upon section 115 of the Indian Evidence Act, 1872. At this juncture the citation shall not helpful to present defendant No.5, as its scope is not the interlocutory application.

12. The issues claimed by defendant No.5 in her application are nowhere averred in the pleadings by defendant No.5. Beyond that these

are legal issues and they are already covered by entangling with the issues based on facts. While dealing with the factual issues, automatically those issues, which are hidden, shall be dealt with.

13. This is a suit which is made time bound by the Hon'ble Bombay High Court and it has to be disposed of on or before 15/04/2026. As mentioned by the Hon'ble Supreme Court in T. Arvindam (Supra) in its own words,

“The pathology of litigative addition ruins the poor of this country and the Bar has a role to cure this deleterious tendency of parties to launch frivolous and vexatious cases. The sharp practice or legal legerdemain stultifies the court process and makes a decree with judicial seals brutum fulmen. It may be a valuable contribution to the cause of justice if counsel screen wholly fraudulent and frivolous litigation refusing to be beguiled by dubious clients and remembering that an advocate is an officer of justice and its society not to collaborate in shady actions.”

14. Considering the observations of the Hon'ble Supreme Court in the above matter, it would not be bitter to say that this court has made every possible effort to dispose of the matter at the earliest. The defendant No.5, by filing such applications is delaying the matter. Therefore, the application is rejected with costs of Rs.3,000/- to be paid to the plaintiff for compelling to face present application, instead of completing the cross-examination of Janabai (DW-1).

Date:09/03/2026.

Sd/-
(S.N.Sarde)
Civil Judge Senior Division,
Ahmedpur.