

**Order Below Exh.40 in Reg.C.S. No. 04 of 2022**(Passed on 12th day of June, 2025)**Subhash Suryawanshi & Ors. Vrs. Suryakant.**

CNR NO.MHLA060000642022

01. The present application filed by defendant as per Order XIV Rule 5 of the Code of Civil Procedure.

02. It is alleged by defendant that, plaintiff in the plaint at para No.5 specifically stated that, he became owner of suit property on the basis of adverse possession. It is further stated that, inadvertently issue in respect of adverse possession was not framed. Defendant requested to frame the issue in respect of plea of adverse possession as claimed by the plaintiff.

03. Plaintiff filed his say, in the say he stated that, he has strong objection to allow present application.

04. Heard Ld. Advocate for the defendant and plaintiff. Gone through the para No.5 of the plaint. From it appears that, plaintiff has claimed alternative relief by way of adverse possession. The Civil Procedure Code mandates that, issues must be framed on every material proposition of fact and law, that is affirmed by one party and denied by the other. If the defendant denies the plaintiffs plea of adverse possession, then it becomes a material proposition requiring a separate issue. In the present case, plaintiff has claimed alternative relief by way of adverse possession, which is denied by the defendant. In this circumstances, issue in respect of adverse possession needs to be framed, even if the plaintiff also claims ownership on the basis of sale deed. In view of this following issue need to be added in the issues at Exh.28.

3-C) Whether the plaintiff has acquired title over the suit property by way of adverse possession ?

Hence, I pass following order:-

ORDER

1- Application is hereby allowed.

2- The above mentioned issue No.3-C be added in issues framed at Exh.28.

(Dictated and pronounced in open Court).

Place :- Ahmedpur.

Date :- 12.06.2025.

(R.D. Wabale)
Joint Civil Judge (Sr.Dn.)
Ahmedpur.