

MHLA110007352019



Order below application vide Exh.25 in RCS No.544/2019

Perused contents of the application and say thereon. Heard to both sides. They submitted contents of the application and say thereon respectively. The application is for recasting issue on the ground that the defendants pleaded theory of previous partition and not the plaintiff. However, in issues vide Exh.21, at Issue no.3, the burden is casted upon the plaintiff to prove the fact of previous partition even though the plaintiff has not at all pleaded so. Perused the rival pleadings. The plaintiff sought for relief of partition of the suit property and separate possession thereof being the same belongs to joint family property or having an ancestral. The defendants contended that every member of the family were living at their service places and there was not a joint family. Further they contended that they purchased some suit properties from their own income and the same is their self acquired. It appears that issue No.3 is framed as 'Does plaintiff prove that the partition between him and defendant Nos.1 and 3 to 6 ?' In the available circumstances and considering the record Issue No.3 recorded at Exh.21 will have to be re-casted. Hence, I proceed to re-caste issue No.3 below Exh.21.

Date :02/07/2025

(R.V. Pande)
Civil Judge (Sr.Dn.),
Nilanga, Dist. Latur.