



ORDER BELOW EXH.47

1) This is an application filed by the plaintiff to frame additional issues.

2) It is the contention of the plaintiff that she has filed present suit for partition and separate possession. The defendant no.9 filed his written statement at Exh.38 stating that, he has purchased suit property from defendant no.8, who was the legal owner and possessor. The plaintiff has no concern with the purchased property. So, as per the pleadings of the defendant no.9 following issues need to be framed.

“Whether the defendant no.9 proved that, the purchased property was absolute property of defendant no.8” and
“Whether the defendant no.9 proved that, the plaintiff was not concerned with the purchased property of defendant no.9”.

3) The defendant no.9 filed his say and strongly opposed the application. It is stated that, there is no need to re-cast the issues framed below Exh.45. The proposed issues could not be framed as those issues are having negative sense. Lastly, the defendant no.9 prayed for rejection of the application.



4) Heard Ld. Counsel for the plaintiff. It is the case of plaintiff that the suit property is ancestral and joint family property. The plaintiff and defendant nos.1 to 7 are the members of undivided joint Hindu family and no partition is effected among them, while the defendant nos.8 and 9 are the illegal purchaser of the suit property. The defendant nos.8 and 9 are the strangers to the undivided family of plaintiff and defendant nos.1 to 7. The suit proceeded without written statement of defendant nos.1 to 7. The defendant nos.8 and 9 filed their written statement at Exh.34 and Exh.38 respectively. It is the contention of defendant no.8 that, defendant no.1 executed sale deed of the suit property for his legal necessity and he is the bona-fide purchaser. According to him, he sold out the said property in favour of defendant no.9. The defendant no.9 filed his written statement at Exh.38 stating that, the suit property was purchased by defendant no.8 by way of registered sale deed and he became the exclusive owner and possessor of the said property. This court has framing issue on the basis of pleadings of the parties. Issue no.1 is in respect of ancestral and joint family property while issue no.3 is in respect of the sale deed executed in favour of defendant nos.8 and 9. Negative burden cannot be casted on any party. The plaintiff by way of proposed issues desire to caste negative burden on defendant no.9. There is no need to caste such



3

RCS No. 393/2017
Sumitra Vs. Subhash & ors
CNR No.MHLA110009222022

burden on defendant no.9. The proposed issues could not be framed. Hence, following order is passed to meet the ends of justice.

ORDER

Application stands rejected.

Place: Latur
Date : 21/12/2022.

(Anand S. Munde)
Jt.Civil Judge, S.D., Nilanga.