



Syed Rashid Syed Ismail

Vs.

Syed Muqaddar Syed Ismail

ORDER BELOW EXHIBIT NO.84 IN
REG.CIVIL SUIT NO. 53/2019

This is the suit filed for partition and separate possession contending that the suit properties were purchased from the joint income of plaintiff, defendant No.1 & 10 and pre-decessor of defendant No.3,4,6 to 10 in the names of defendant no.1,3,& 5. It is submitted that the parties are governed by the Muslim law, there is no concept of joint family under Muslim law. However, issue No.1 was wrongly framed as suit property is joint family property of the parties. Hence, plaintiff prayed to recast the issue to that effect.

2. On the contrary, the defendant objected instant application on the ground that the same is filed only to prolong the matter. Hence, defendants prayed to reject the application with cost. Heard learned advocates for both the parties and gone through the record.

3. Record discloses that, parties are governed by the Mohammedan law. There is no concept of ancestral or joint family property under Mohammedan law. However, issue No.1 was framed as whether suit property is joint family property. It is contended in the plaint that suit property was purchased by plaintiff, defendant No.1, 10 and Pre-decessor of defendant No.3,4,6 to 10 in the names of defendant No.1,3 & 5. It appears that, issue No.1 is wrongly framed and needs to be re-framed as per the pleading and provisions of Mohammedan law. Thus, the Issue No.1 needs to be re-framed

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below Exh.47. Hence, following order.

:-ORDER:-

Issue No.1 framed below Exh.47 is re-framed as follows:-

“whether plaintiff proves that suit property was purchased by he and defendant No.1,10 and Predecessor of defendant no.3,4,6 to 10 in the names of defendant no.1,3 & 5 and he is having undivided 1/4th share therein ?”

(Dictated and pronounced in open court)

Date:-03/04/2025.
Kinwat

(P. M. Mane)
Civil Judge, Jr. Division,
Kinwat