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MHNG140003972020

**R.C.S. No.24/2020**

**Shankar Vs. Devkabai and Others**



**ORDER BELOW EXH.44**  
**(Dated 09<sup>th</sup> January, 2025)**

The Defendant Nos.1 to 3 filed this application for the addition of issues with submission that the plaintiff has filed this suit for injunction and other reliefs. The Defendant Nos.1 to 3 specifically denied the ownership of the suit land, but the issues is not framed in this regard. Hence, for the proper adjudication of the matter the issue “Do the plaintiff prove that he is full and absolute owner of the suit property i.e. encroached land is necessary”.

**2.** The plaintiff filed his say and strongly opposed this application with submission that the issue has been framed at Exh.14 on 26.08.2021 and evidence of the plaintiff is also started after the span of more than three years the Defendant Nos.1 to 3 have moved this application for the addition of issues. This application is on a baseless and hypothetical ground. The Defendants have filed this application only to prolong the matter, hence, the application is liable to be rejected.

**3.** Heard Learned Advocate for the Defendant Nos.1 to 3 Mr. Kushwaha and Learned Advocate for the Plaintiff Mr. Paliwal.

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On perusal of record it appears that the plaintiff has filed this suit for possession, permanent and mandatory injunction. The plaintiff came with pleading that he is the owner of the suit property. The Defendant Nos.1 to 3 have made encroachment over the portion of suit property admeasuring 16.5 Sq. Mtrs. towards the western side of the suit property and seeking relief that to issue directions to the Defendants to remove the encroachment over the said portion which is mentioned in Plaint Map A, B, C, D.

4. The Defendants denied the ownership of the plaintiff over the suit property. The issues has been framed at Exh.14 but there is no any issue in respect of this ownership of the plaintiff over the suit property. Hence, for the proper adjudication of the suit, it is necessary to frame the issues in this regard. Considering all facts and circumstances, I pass the following Order :-

## **ORDER**

1. Application at Exh.44 is hereby allowed.
2. Following Issue be added on Exh.14 as  
**Issue No.1-A** - *“Whether the plaintiff proves that, he is the owner of the suit property .”*  
**Issue No.1-B** - *“Whether the plaintiff*

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*proves that, encroached portion  
admeasuring 16.5 Sq. Mtrs. is a part and  
parcel of the suit property”*

Parseoni.  
Date 09/01/2025

(G.O.Wankhade)  
Civil Judge Junior Division,  
Parseoni