

**Order below Exh. 117.**

(Passed on 30<sup>th</sup> January, 2023)

1. Defendant Nos. 1 to 3 have moved an application under Order 14 Rule 5 of the Code of Civil Procedure for framing of additional issues. In this suit for declaration and perpetual injunction, defendant Nos. 1 to 3 by filing an application below Exh. 117 submitted that they have specifically contended in their written statement that the instant suit is not within limitation, but, the Court vide framing issues below Exh.58 have not framed issue in respect of limitation. Hence, additional issue in the point of limitation be framed.

2. Plaintiff's counsel Shri. Thakare by filing his Say on the overleaf of an application below Exh. 117 strongly opposed this application and submitted that the application is not at all tenable. He further submitted that the matter is pending for plaintiff's cross-examination defendant is trying to prolong the matter on one or the other ground by making such type of applications. Hence, instant application (Exh.117) is liable to be rejected.

3. I have gone through the application ( Exh.117 ) and Say filed thereon. Also gone through the entire record of the case. On perusal of record, it appears that defendant Nos. 1 to 3 have specifically taken a defence of point of limitation in their written statement, but, on perusal of issues framed below Exh.58 it appears that, issue in respect

of point of limitation has not been framed. Hence, considering the contention of defendant Nos. 1 to 3 in their written statement. I find it proper to frame one additional issue in respect of point of limitation below Exh.58. Hence, the following order -

**ORDER**

- 1) Application below Exh. 117 is allowed.
- 2) Issue on the point of law of limitation is hereby framed below Exh.58 as issue No. 6A.

Date: 30.01.2023.

**(Prasad B. Joshi)**  
Civil Judge(Jr.Dn.),  
**Chandwad.**