

<u>CNR No.MHPU130000512016</u>	<u>Reg. Civil Suit No.8 of 2016</u>
	Vinod Vitthal Kolte & Ors. Vs Vitthal Namdev Kolte & Ors.

COMMON ORDER BELOW EXH.107.
(Date : 02.07.2026)

The plaintiffs have moved the present application under Order XIV Rule 5 of the Code of Civil Procedure, praying for framing of additional issues.

2. It is the case of the plaintiffs that though issues were framed by the Court below Exh.62, the same were confined to the averments in the plaint and did not take into account the specific defences raised in the written statements filed by defendant nos.1, 2, 7 and 8. The plaintiffs accordingly prayed that additional issues be framed touching upon (i) non-joinder of necessary parties; (ii) incorrect valuation of the suit; (iii) absence of cause of action; (iv) the plaintiffs' locus standi to institute the suit; and (v) limitation.

3. Defendant no.2 has filed a reply and opposed application stating that, the application is false, belated, and instituted merely to protract the proceedings. It is submitted that the issues were framed on 28.11.2018 below Exh.62, and that the present application comes nearly eight years thereafter without any satisfactory explanation for the delay. It is further submitted that the issues already on record are wide enough to subsume all defences raised in the written statement, including those sought to be introduced through the proposed additional issues. defendant no.2 also points out that the questions of valuation and limitation stand already adjudicated by the Court in its

order on Exh.77, rendering the present application misconceived and liable to be rejected.

4. Defendant no.8 likewise opposes the application, contending that it is vague, not maintainable, and lacking any legal foundation. It is submitted that the plaintiffs have disclosed no justifiable ground for seeking additional issues at this belated stage, and that the issues framed below Exh.62 already arise sufficiently from the pleadings of the parties, making the proposed additional issues both unnecessary and contrary to settled principles governing the framing of issues under the Code. It is further submitted that the application is a device to delay adjudication of the suit and ought to be dismissed with costs.

5. I have heard the learned counsel for the respective parties at lengths. Upon perusal of the pleadings and record of the suit, it appears that, so far as the proposed issue regarding non-joinder of necessary parties is concerned, this Court is of the view that the same arises from the pleadings on record and is necessary for complete and effective adjudication of the controversy between the parties. The said additional issue therefore deserves to be framed.

6. As regards the proposed issues touching upon valuation of the suit, absence of cause of action, and the plaintiffs' locus standi to institute the suit, this Court finds that these very objections were specifically raised by the defendants in their application under Order VII Rule 11 of the Code of Civil Procedure, which came to be rejected by this Court. The questions sought to be raised through the proposed additional issues therefore stand already adjudicated, and cannot be permitted to be resisted by framing separate issues at this

stage. However, this Court notes that no issue on the question of limitation has been framed thus far. Limitation being a mixed question of law and fact bearing directly upon the maintainability of the suit, and arising from the pleadings of the defendants, an additional issue thereon is warranted. In view of the above discussion, the application is deserves to be partly allowed. Hence, I pass the following order :

ORDER

- i. The application (Exh.107) is hereby partly allowed.
- ii. In exercise of powers under Order XIV Rule 5 of the Code of Civil Procedure, 1908, the following additional issues are framed at Exh. 62 :

Additional Issue No.1 : Whether the suit is bad for non-joinder of necessary parties ?

Additional Issue No.2 : Whether the suit is barred by limitation ?

- iii. The prayer for framing of the remaining additional issues, having already been considered and decided in the order passed on the application under Order VII Rule 11 of the Code of Civil Procedure, stands rejected.
- iv. No order as to costs.

Place : Saswad.
Date : 02/07/2026.

[**Satish G. Shinde**]
Jt. Civil Judge Junior Division,
Saswad, Dist. Pune.

CERTIFICATE

I affirm that, the contents of this P.D.F file of order are same as per the original order.

Name of the Court	:: Shri. Satish G. Shinde, Jt. C.J.J.D. & J.M.F.C., Saswad, Dist. Pune
Name of SteNo.grapher	:: Santosh K. Panchal, SteNo.grapher (Grade - III),
Date of Order	:: 02/07/2026.
Order signed by P.O. on	:: 02/07/2026.
Order uploaded on	:: 02/07/2026.