

ORDER BELOW EXH. 93

Present application filed by defendant nos. 1 to 3 to frame additional issues. It is the contentions of the defendants that the suit is for cancellation of partition deed, partition and possession. As per contentions and pleading of defendants in written statement, it is necessary in the interest of justice, to frame additional issues about oral partition and suit property 1H.

2. Plaintiffs filed say at Exh. 95 and denied the contents in application as false and illegal. The plaintiffs contended that interim application is allowed. On 28.07.2023, issues have been framed. On 06.03.2024 evidence affidavit has been filed. Defendants had taken part cross on Exh. 61. The matter has been adjourned for further cross-examination when application filed. Plaintiffs evidence is going on. The defendants are deliberately causing delay for cross-examination. There is no need of additional issues as prayed. Similar issues have been framed at Exh. 59. Hence, prayed to reject an application.

3. Heard argument of both parties. Perused plaint, written statement and issues at Exh. 59. The suit is for cancellation of partition deed, partition, possession and injunction. It is the contentions of defendants in their written statement at Exh. 41 that there was oral partition during the life time of Bhiku Yesu Yadav, in the year 1987. Moreover, defendants contended that the suit property 1H is their self acquired property. Hence, considering contentions in written statement and nature of suit, it is necessary to frame additional issues as prayed. There will be no harm to plaintiffs. As the burden in additional issues is

upon defendants. Both parties have an opportunity to lead evidence if any. Hence, following order is passed;

ORDER

1. The application is allowed.
2. The following additional issues framed at Exh. 59.
 - 2-A. Whether defendants nos. 1 to 3 have proved that there was oral partition between defendant nos. 1 to 3 during life time of Bhiku Yesu Yadav.
 - 2-B. Whether the property described in scheduled 1H of the plaint is the self-acquired property of defendant no. 1.
3. The plaintiff as well defendants are at liberty to adduce additional evidence on the aforesaid issues, if any.

Date : 27.04.2026

(S. K. Deshmukh)
Civil Judge Jr. Division, Saswad