

ORDER BELOW EXH.34 IN R.C.S.No.50/2022

This is application filed by the defendant under provisions of Order 14 rule 5 of Code of Civil Procedure, 1908, for recasting of issues i.e. for deletion of issue no.1 to 3 and issue no.7.

02. Defendant vide this application contends that, the present suit is filed by the plaintiffs against defendant under Section 16(j) of Maharashtra Rent Control Act, 1999 for recovery of possession of suit property on the ground that, suit property is required for purpose of the demolition thereof and erection or raising of a new building in place of old building. As per pleading of the plaintiff it is contended that, in para nos.1 and 6 that, defendant were in possession of 11.9 Sq.Mtr. of property, plaintiffs are ready to give possession of new property on rent in place of new constructed premises. The plaintiffs have mentioned the expenses of new construction of Rs.1500/- per Sq.ft. The plaintiffs are claiming relief of fixation of future standard rent in respect of said constructed premise.

03. The defendant has filed his written statement wherein in para 5 defendant has denied that, he is not possession of suit premises as alleged by the plaintiffs in their pleading. Defendant has also mentioned in para 5 and 6 grounds for rejection of relief claimed by the plaintiffs. The learned predecessors of this court has framed issues at Exh.20. However, issue no.1 to 3 are required to be deleted as plaintiffs are claiming future fixation of standard rate of

present premises. The plaintiffs have not raised any dispute about fixation of standard rent in their pleading. Hence, defendants prayed to delete issue no.1 to 3 and issue no.7 as they are not necessary for determination of adjudication of the suit.

04. Plaintiffs filed their say to the present application at Exh.35. Plaintiffs strongly opposed the application on a ground that, the present application is filed by the defendant is false and misleading. The present application is filed with intention to delay the matter. The issues framed at Exh.20 are proper and correct. The plaintiffs have pleaded in their plaint about relationship of tenant and landlord between plaintiff and defendants of 70 years. It is also contended that, the standard rent of suit premises was fixed of Rs.21/- per month. Hence, application filed by the defendant deserves to be rejected.

05. Perused the application, say filed by plaintiffs & record of the case. Heard the Ld. Advocate Shri.Wadkar for defendant & Ld. Advocate for plaintiffs Smt.R.S.Mahajani. At this stage it is relevant to note the provisions of Order 14 Rule 5 which provides that,

“power to amend, and strike out issues :- (1) The court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in

controversy between the parties shall be so made or framed (2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.”

06. It is relevant to note that the plaintiffs have filed this suit for relief of recovery of possession on the ground of recovery of possession of suit property under Section 16(j) of Maharashtra Rent Control Act, 1999 for purpose of the demolition thereof and erection or raising of a new building in place of old building. The issues are framed on the basis of material proposition of fact affirmed by one party and denied by other party. The Ld. Predecessors of this Court has framed issues at Exh.20. It is the contention of defendant that, issue nos.1 to 3 and 7 are not necessary and required to be deleted. It appears from perusal of plaint that in para 4 the plaintiffs have pleaded that, suit property is given on rent to father of defendant by plaintiffs 60 to 65 years ago. At that time, rent of the suit property was Rs.21/- thereafter there was no increase in rent of the suit property. The defendant is in possession of 19.2 Sq.Mtr. of suit property. The defendant has not given rent of the suit property to plaintiffs since many years. Though, defendant in their written statement para no.3 has admitted relationship of letting of suit property to father of defendant. Defendant has disputed as to who are legal heirs of successors of defendant i.e. legal heirs. In the facts of the case in hand, issue no.1 to 3 and issue no.7 have been framed on the basis of material proposition of fact affirmed by plaintiff and denied by the defendant in his written

statement. Hence, it would not be proper to delete issue no.1 to 3 and issue no.7. Hence, application deserves to be rejected. Hence, the following order-

ORDER

Application Exh.34 is rejected. No order as to costs.

Place - Chiplun
Date - 06.04.2026

(K.A. Powar)
C.J.J.D., Chiplun.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/order are same, word to word, as per the original Judgment/order.

Name of Stenographer	Mr. S. J. Thorat
Name of Court	C.J.J.D. & J.M.F.C., Chiplun.
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