

Order Below Exh. 98 in R.C.S. No. 23/2013

(CNR No. MHRT080002662013)

This is a suit for eviction of tenant on the ground of default in payment of rent and due to bonafide requirement.

02. By the present application, the defendants have prayed for framing an additional issue in the issues framed by this Court at Exh. 32. It is contended that, it is necessary frame an issue that, “Whether pre-suit notice issued by the plaintiff is legal ?”

03. Application is opposed by the plaintiff, by reply below Exh. 99.

04. Perused the record. Heard both sides.

05. Learned advocate for the defendants No. 01 to 03, Shri. C. M. Mangale, has submitted that in view of section 15 (2) of the Maharashtra Rent Control Act, 1999, pre-suit notice must be of 90 days. Thus, it is necessary to frame the proposed issue.

06. Learned advocate for the plaintiff Shri. A. A. Kadam, has argued that issue No. 07 framed by this Court below Exh. 32 is “Whether the plaintiff is entitled for recovery of possession from the defendants ?” According to learned advocate, in consideration of this issue, validity and legality of the notice can be considered. Thus, he submits that, there is no necessity to frame the proposed issue.

07. The contentions as to legality or otherwise of the pre-suit notice forms material propositions. As per sub-rule 3 of Rule 1 of Order XIV of the Code of Civil Procedure, each material proposition affirmed by one party and denied by the other, shall form the subject

of a distinct issue. In view of said provision, issue as to validity or legality of the pre-suit notice, shall be a distinct issue.

08. Only because there is issue No. 07 which is of general nature, it cannot be said that the separate issue is not necessary. Thus, the application deserves to be allowed. An additional issue, as prayed, need to be framed, as issue No. 03-A. Hence, the application is allowed.

Sd/-

(B. D. Tare)

Date : 08.11.2023

Civil Judge (J. D.)Deorukh

- : C E R T I F I C A T E : -

Judgment/order in (Order below Exh. 98 in R.C.S No.23/2013)

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Stenographer :- S. A. Bhale

Court Name :- The Court of Civil Judge (J.D.) &
Judicial Magistrate F.C., Deorukh

Date of decision :- 08/11/2023

Order signed by PO. on :- 08/11/2023

Order uploaded on :- 08/11/2023