

**ORDER BELOW EXH. 77 (I.A.No. 2/2022) IN REGULAR
CIVIL SUIT NO. 51/2013**

This is a suit for declaration, possession and injunction. The present application is filed by the Ld. Advocate for defendant for framing of additional issue.

02. Perused application and say. Heard both sides.

03. It is submitted on behalf of defendant that specific contentions have been raised in para no. 12 of the written statement that the suit is not property valued. The said issue need to be framed for final adjudication of the matter. The plaintiff has challenged sale-deed and sought declaration of the same. The plaintiff ought to have paid Court fees as per Sec. 6 (iv)(ha) of the Maharashtra Court Fees Act but the same is not done. Thus, defendants have prayed for framing additional issues.

04. The plaintiff through his advocate has strongly objected the application and submitted that application is false and illegal. The framing of additional issue as prayed by defendant is not necessary. The plaintiff has properly valued the suit and required Court fees have been paid. There is difference between seeking declaration and cancellation of the sale-deed. Mere contention raised in the written statement is not justified for framing issue. With this submission, the plaintiff has prayed for rejection of the application.

05. I have gone through the written statement and issues framed on record. My the then Ld. Predecessor has framed

issues on 15/09/2014. From perusal of written statement, it appears that defendant in para no. 12 in written statement have specifically contented that the suit ought to have been valued in terms of Sec. 6 (iv)(ha) of the Maharashtra Court Fees Act. The plaintiffs advocate has submitted that it is not required to frame such issues. However, issues are framed by the Court considering rival contentions made by the parties. When there is contention on record that the suit is not properly valued, it would be just and proper to frame such additional issue as prayed. The application deserves to be allowed. Hence, following order is passed.

:-ORDER:-

1. Application is allowed.
2. Additional issue as prayed by the plaintiff be framed below exh. 20 at Sr. 9 as follows and all necessary issues be re-numbered. “ दाव्याची न्यायालयीन शुल्क व अधिकारक्षेत्र यादृष्टीने योग्य मुल्यांकन केलेले आहे काय ? ”
3. No order as to Costs.
4. Concern clerk to comply.

Date- 16/08/2023.

Malvan.

A.D. Tidke

Civil Judge (J.D.) Malvan.