



CNR NO. MHSI70004632019

**Order passed below Exh. No.21
(I.A. No.3/2023) in F.D. No. 6/2019**

This is an application preferred by the respondent no.1 for framing of issues.

2. The respondent has contended that respondent has objected the relief claimed by the applicant. The suit property was already collapsed. The respondent has constructed new house by incurring his own expenses. Though the said buildings are having similar numbers, the houses are totally different. The new building is constructed on totally different land. Therefore, it is necessary to determine whether there is difference between original house and instant house. Consequently, it is necessary to frame issues and grant chance to the respondent no.1 to adduce evidence on said issues. Therefore, prayed to allow the application.

3. The applicant has resisted the application by filing say on overleaf of the application. It is contended that the application is preferred to delay the matter. Therefore, prayed to reject the application.

4. Heard learned advocate for the applicant and respondent no.1. Both the parties have reiterated the contents of the application and say. In light of the contentions raised by the

parties, I have gone through the say filed by the respondent no.1 at Exh.15. On perusal of say at Exh.15, it appears that the respondent no.1 has contended that the suit house no.177-A was collapsed, therefore, respondent no.1 on 10/10/2014 constructed house over his $\frac{1}{2}$ share by obtaining permission from Grampanchayat Kolamb. Therefore, the applicant and respondent no.2 and 3 are not having any right over newly constructed house. From the said pleadings and pleadings raised in application at Exh.21, it appears that the respondent no.1 has taken total different stand in application at Exh.21. The respondent no.1 has contended in application at Exh.21 that the place of the newly constructed building and old house are altogether different. On the contrary, in say filed at Exh.15, it is contended that newly house was constructed in half portion of house no.177-A. The respondent no.1 in say filed at Exh.15, nowhere disputed location of the new house. Therefore, there is no necessity to frame issues and adduce evidence on this aspect. Thus, the application filed by respondent no.1 is liable to be rejected. Accordingly, I pass following order.

ORDER

The application at Exh.21 stands rejected.

(Pronounced and dictated in open Court.)

Place : Malvan
Date : 11/09/2023

Mahesh R. Devkate
Jt. Civil Judge Jr.Dn., Malvan.