



CNR NO. MHSI7000 4792017

**Order passed below Exh. No.57
in R.C.S. No. 79/2017**

This is an application preferred by the plaintiff under Order 14 Rule 5 of the Code of Civil Procedure for framing of additional issues.

2. The plaintiff has contended that the plaintiff has filed present suit for perpetual injunction and restraining defendants for causing obstruction to the plaintiff's ownership and causing damage to the suit property. Therefore, it is necessary to frame additional issue that Whether the plaintiff proves that the defendants have interfered with the ownership right of plaintiff over the suit property ? Accordingly, prayed to allow the application.

3. The defendants have not filed any say over the said application, therefore, the application is proceeded without say of the defendants.

4. Heard, learned advocate Shri. G.J.Girkar. The learned advocate for the defendants have not argued on the said application. Therefore, the said application is decided without argument of the defendants. The advocate for the plaintiff has reiterated the contents of the application.

3. As per Order 14 Rule 5 of the Code of Civil Procedure, the court may at any time before passing a decree amend the issues or frame additional issues. On perusal of pleadings it appears that the plaintiff has claimed possession over the suit property. The plaintiff has also claimed that the defendants have interfered with the possession of the plaintiff. Accordingly, my learned predecessor has framed issue below Exh. 42. On perusal of issues at Exh. 42 it appears that issue no. 2 is already framed in respect of obstruction caused by the defendants. The issue proposed by the plaintiff is also in respect of interference caused by the defendants. The said issue is already framed below Exh. 42. Therefore, I am of considered opinion that additional issue is not required to be framed. Hence, I pass following order.

ORDER

1. The application at Exh.57 stands rejected.

(Pronounced and dictated in open Court.)

Date : 05/07/2024

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