

ORDER BELOW EXH. 108 IN RCS NO. 278/2015

1. By way of this application plaintiff prayed for framing of additional issues. It is submitted that, during the pendency of suit sale transaction in respect of suit properties were executed and registered. Defendant Nos. 12 to 14 accordingly arrayed as defendants being purchasers in this suit. Therefore, an issue in respect of bonafide purchaser needs to be framed.

2. Learned advocate for defendant Nos. 12 to 14 strongly objected the application and submitted that application is devoid of merits. There is no pleading of the parties to suggest that additional issue in respect of bonafide purchaser needs to be framed. The plaintiff is trying to prolong the trial. Moreover, this issue is not necessary for proper adjudication. Apart from it, for want of rival pleadings this issue cannot be framed. With this submission prayed to reject the application.

3. Heard both sides. Perused record and proceeding.

4. Present suit is filed for the relief of declaration against transaction in between defendant Nos. 1, 5 to 9. Record suggest that defendant Nos. 12 to 14 are subsequent purchasers. By way of Written Statement Exh. 87, defendant Nos. 12 to 14 raised defence about non-joinder of necessary party as well as claimed themselves as bonafide purchasers as orders passed in RD No. 31/1993 are not binding on them. Considering all these aspects,

certainly there is no direct pleading in the plaint about sale transaction of defendants with defendant Nos. 12 to 14. However, the plaintiff seek declaration against sale transaction of their predecessor-in-title in present suit. Therefore, it is necessary to frame additional issue in view of specific defence of defendant Nos. 12 to 14. Thus, following order.

ORDER

(1) Application is allowed.

"२अ. प्रतिवादी क्र. १२ ते १४ हे सद्भावपूर्ण खरेदीदार असल्याचे सिद्ध करतात काय ?"

(2) Parties to take note.

Islampur
Date : 23/01/2024.

Sd/-
(M.M. Chitale)
Joint Civil Judge Senior Division,
Islampur