


MHSN060021362013 	R.C.S./700406/2013 Arun Annaso Kore Teli Vs. Ashok Annaso Kore Teli etc.4
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ORDER BELOW EXH.90

01. The present application is filed by the plaintiff for framing additional issue. Present suit is filed by the plaintiff for partition, declaration and and permanent injunction. In the said matter, the defendants no. 1 to 5 have filed written statement at Exh. 15. They submitted that it is clearly stated of the defendants that suit properties mentioned in para no. 1-b and 1-c of the claim are their self acquired properties. My Ld. Predecessor has framed issues vide Exh. 24, but no issue in respect of the suit properties are self acquired properties is framed. As such by way of present application plaintiff is seeking framing of additional issue stating burden of the same on defendants. Hence present application.

02. Defendants filed their say and resisted the application on the ground that, in the said matter, the issues are framed on exh. 24 as per pleadings of the parties. There is no need to frame additional issue hence they prayed for rejection of the application.

03. Perused the application. Heard both advocates at length.

04. Before going into merit of the application let me consider legal aspect firstly, by way of provision under order 14 Rule 5 of CPC Court has power to recast issues. It reads as under,

Order 14 Rule 5 Power to amend and strike out issues

(1) The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed.

(2) The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or

introduced.

05. As per said provision framing of issues is an obligation of Court in order to find out exact nature of controversy and to narrow down scope of dispute between parties so as to enable them to know exact nature of case which they are required to meet as such issues can be modified at any stage of the proceeding. Coming to the matter in hand I have gone through pleadings of the parties, wherein defendant no. 1 in para 8 of the pleading specifically averred that suit property mentioned in para 1 (a) of the plaint is his self acquired property. As well in para 9 of his written statement is specifically averred that suit property mentioned in para 1 (c) is self acquired property of defendant no. 5. on contra, it is plaintiffs pleading that suit properties are their joint family property having his 1/5th share intact therein. As such, rival pleadings as to status of the suit properties is made. Hence, proper decision of the matter is impossible without shifting burden of issues on the parties to prove their pleadings. In the present matter proposed issue under application needs to be framed to decide real controversy between the parties. Hence following order,

ORDER

1. Application is allowed.
2. Additional issue is framed at Exh.24.
3. Parties to take note of the same, and to lead evidence accordingly.

Date: 27.06.2023

(Smt. Ranjana Vijay Kamble)
2nd Jt. Civil Judge Junior Division,
Miraj, District Sangli.

CERTIFICATE

I affirm that the contents of this P.D.F file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of Stenographer	:- Mr. S. S. Shingana			
Name of Court	:- Smt. Ranjana Vijay Kamble, 3 rd Jt. Civil Judge (J.D.) and Judicial Magistrate First Class, Miraj, Dist., Sangli.			
Date of decision / typed	:-	27	06	2023
Judgment/order signed by the P.O. on	:-	27	06	2023
Judgment/order uploaded on	:-	27	06	2023