

MHSN080000052014



**Order below e application Exh. 1 in RCS 4/2014  
Mahadevi Vs Mahadev & Ors**

The suit is for partition and other consequential reliefs.

2 Original defendants 6 and 7 have filed written statement cum counter claim below Exh.60. The original plaintiff is filed written statement to counter-claim below Exh.67 and competed the claim.

3 The application is by the original plaintiff 2 seeking rejection of the plaint on the ground, that the original defendants 6 and 7 failed to file original documents or any list of documents and therefore, it can not be understood as to why the counter claim has been filed. Futher, it is averred and argued that it is mandatory to file original documents and the copies alongwith the counter-claim and therefore, the plaint in the counter claim be rejected.

4 The original defendants 6 and 7 have filed their say to the present application below Exh.79 and objected to the application. The application is misconceived. The counter-claimant was divested and not made a party and fianally after making necessary amendment has been arrayed as a party. The reason assigned may not be proper. The application has been filed to delay the proceedings. The application is misconceived. Hence, the application is opposed.

5 The original defendants 6 and 7 have averred, that they are the legal heirs of the deceased Sidram. Original defendant 6 is the daughter of Nimbevva (who is original defendant 7). In short, original defendant 7 is the legally wedded wife and original defendant 6 is the legitimate child of deceased Sidram and original defendant 7 out of the wedlock and original defendant 1 Mahadevi is the second wife. There is a dispute as to the status of the present original defendants 6 and 7 and the original plaintiffs. It is necessary to decide as to whose is the legally wedded wife or the ligitimate child and therefore, additional issues framed.

6 The power to frame, alter, add to, or modify issues is governed by Order 14 Rule 5 of the CPC, and may be exercised till passing of the decree. Now reverting to the facts at hand, on perusal of the pleadings, the plaintiff claims to be the son of Ramu, whereas the defendants have denied the status in the written statment in para 6. Hence, it is necessary to frame additional issue, as to the status of the plaintiff. The same is necessary for

proper adjudication of the controversy between the parties. Hence, the following

**Order**

The following additional issues are framed.

- 5a) Do original defendants 6 and 7 prove that they are the legal heirs of deceased Sidram?
- 5b) Do original defendants 6 and 7 further prove that they are entitled to a share in the counter-claim property? If yes, the shares of the original defendants 6 and 7 and the original plaintiffs?
- 5c) Do original defendants 6 and 7 proves that the sale-deed executed by original plaintiffs 2 and 3 bearing registration No. 5145/2010 is illegal, bogus, and not binding on the original defendants 6 and 7 's share?
- 5d) Do original defendants 6 and 7 further proves that they are entitled a decree of perpetual injunction?
- 5e) Do original defendants prove that they are entitled alternative to a relief of partition?
- 5f) Do original defendants 6 and 7 further prove that they are entitled to an inquiry into mesne profit?

2 Note be taken below Exh.30. The parties to lead evidence, if required.

Jath  
Date:- 06/02/2026

(Sanjay P. Bunde)  
Jt C.J.J.D, Jath

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Issues 'E' continued below Ex.30

\*Additional issue framed vide order below Ex.1 Dt.06/02/2026

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