

MHSN090007132011



Order below Exh.69 in R.C.S.No.164/2011

[Sangeeta Pandurang Pawar & Anr. v/s. Suryakant Yadavrrao Pol & Anr.]

The present application is filed by plaintiffs for deletion of issue no.3D. By filing present application it is submitted by the plaintiffs that the plaintiffs have filed present suit for declaration, perpetual injunction and recovery of possession wherein the issues have been framed at Exh.27. Thereafter, the defendants filed an application below Exh.45 to frame a issue regarding the Court fees. Accordingly, additional issue no.3D was framed. The record shows that the report of A.S. was called regarding the Court fees, which is filed on record, which shows that the Court fee deposited by the plaintiffs is sufficient, therefore, there is no need keep issue no.3D. Therefore, the issue no.3D may be deleted.

2. On the other hand the Ld.Advocate for the defendants filed his say and submitted that they have no objection to delete the issued no.3D.

3. Heard both sides. Perused record. While taking into consideration this application it is necessary to look into the provision of Order XIV Rule 5 of Code of Civil Procedure which states about power to amend and strike out issues. It states that the Court may at any time before passing a decree may amend the issues or frame additional issues which are necessary for

determining the matter in controversy between the parties. Also strike out the issues which are not required for final adjudication of the suit. The plaintiffs have filed present suit for declaration, perpetual injunction and recovery of possession wherein the record shows that filed an application at Exh.34 for amendment of plaint. The said application was allowed. Due to the said amendment it was necessary on the part of plaintiffs to deposit the required court fee for their amended relief. The plaintiffs did not deposit the required court fee, therefore, the additional issues were framed in view of order below Exh.35. Accordingly, the additional issue regarding the court fee was framed as issue no.3D. The record further shows that there is a report of A.S. at Exh.43. After perusal of said report it is seen that the A.S. had filed the said report on the basis of order passed by my Ld. Predecessor on 06.04.2018. The report further shows that it was necessary on the part of plaintiffs to deposit court fees of Rs.200/-. The record further shows that the plaintiffs have deposited the court fee of Rs.200/- on 29.11.2021 and accordingly order was passed on Exh.42. It means, the plaintiffs have deposited required court fees for the amendment in view of order passed below Exh.35. Hence, it will be proper to delete/strike out the issue no.3D. Hence, I proceed to pass following order.

ORDER

1. Application is allowed.
2. The issue no.3D is hereby strike out.
3. No order as to costs.

TASGAON.

Date : 08.02.2023

(Omprakash M.Mali)

Civil Judge Jr.Dn.,

TASGAON.

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

Name of the Stenographer	:	U.P.Patil
Court	:	Civil Judge Jr.Dn. and Judicial Magistrate F.C., Tasgaon.
Date	:	08.02.2023
Order signed by the Presiding officer on	:	08.02.2023
Order uploaded on	:	08.02.2023