

Special Civil Suit No. 17/2018

Shankarro Patil Sangh v. Jyotidevi

ORDER BELOW EXH.36

This is application to review the order passed below Exh.32, as it is passed in absence of learned advocate of the plaintiff, without hearing of the learned advocate of plaintiff. Therefore, there is some mistake or error apparent on the face of record.

2. The plaintiff has submitted application Exh.32 for framing issues. But, without hearing of the plaintiff, issues are not added. Therefore, the application be allowed.
3. Against this application, the defendant has submitted say below Exh.41 that issues which are framed below Exh.30 are correct. The plaintiff has liability to prove his case on merit. On merit the application Exh.32 is decided. So, there is no need to review the order passed below Exh.32.
4. I have heard learned advocates of both sides. The learned advocate of plaintiff submitted that, the defendant has explained the facts which are in his own knowledge. Therefore, burden lies on him to prove the facts. On the other hand, learned advocate of defendant submit that, issues are properly framed, the suit is simplicitor for recovery of amount, the party who asserts some facts has to prove that facts and burden lies on him and not on the defendant. Hence, application be rejected.

5. I have perused pleadings. The defendant has submitted his written statement below Exh.49. He states that, the defendant is a trust registered under Maharashtra Public Trust Act. So, this Court has no jurisdiction. Furthermore, he states that the claim, which has been mentioned, is out of limitation. Furthermore, he states that nominally cutting machine of sugarcane is purchased in name of defendant by nominally shown loan in name of the defendant, for which signatures of defendants are taken on blank papers. So, these are defences which are within well knowledge of the defendants. So, the fact which has been in specifically in his knowledge, then burden lies on him to prove the fact. So, order which has been passed below Exh.32 is required to be reviewed. Hence, in the result, I pass the following order.

ORDER

1. Order below Exh.32 is reviewed for framing additional issues, as required by pleading.
2. No order as to costs.

Place - Malshiras.
Date - 05/08/2022.

(**U. V. Joshi**)
Civil Judge Senior Division,
Malshiras.

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment is same word to word as per the original Judgment.

- (a) Name of the Stenographer : **N. N. Konda, Grade-II**
- (b) Court : **Civil Court Senior
Division, Malshiras.**
- (c) Judgment signed by P.O. on : **05.08.2022.**
- (d) Judgment uploaded on : **05.08.2022.**