

**ORDER BELOW EXHIBIT-139**

This is an application by defendant Nos.2 to 4 for framing additional issues as per pleadings. It is contended that, issues are framed at Exh.47. However, as per pleading, the proposed issues are to be framed and re-cast as under:

- 01. Does the plaintiff prove that mutation entry in respect of partition in revenue record had been effected by fraud committed by the defendant No.1?**
- 02. Does the plaintiff prove that on request of Pandurang to record his name as agriculturist he applied to Talathi to mutate name of defendant No.1?**
- 03. Whether suit is bad on account of mis-joinder of parties?**
- 04. Whether the plaintiff is estopped by conduct from claiming suit relief?**
- 05. Whether the suit is tenable in absence of proper reliefs?**
- 06. Whether the suit is within limitation?**

02. Say filed by the plaintiff at Exh.186. It is contended that, the plaintiff has filed suit for declaration, perpetual injunction and possession. Already issues are framed at Exh.47, further also issue is framed. The cross-examination of the plaintiff and defendants is over. On the technical ground, the plaintiff has sought amendment in the plaint regarding the possession. The said application is allowed by the

Hon'ble Apex Court, along with direction to dispose of this suit within time limit by this Court. The application by the defendant is to prolong the matter, no ground to frame additional issue or re-cast the issue. Application be rejected with costs.

03. Heard both the Ld. Advocates at length. Admittedly, the amendment is allowed by the Hon'ble Apex Court and matter is time bound i.e. to dispose of on or before 11.07.2026. Moreover, after the amendment is carried out by the plaintiff, additional issue is framed on 03.02.2026. Matter was kept for additional evidence on the additional issue framed. Admittedly, in argument the defendants Ld. Advocate submitted that, they are pressing for only issue Nos.1 and 4 of the proposed issues, moreover, the proposed issue no.6 is already framed.

04. Ld. Advocate for the defendant argued that, application for additional issue is moved by the defendants Advocate on 29.07.2013, therefore, it can not be said that, now application is moved to prolong the matter. It is admitted position that, application is moved 29.07.2013, this facts support the argument of defendants Advocate.

05. It is settled position that, under Order XIV of CPC, the Court after reading the pleadings of the parties material issues are framed on the basis of allegations in the pleading and denied by the parties for final adjudication. It is also settled that, issues can be framed at any stage. In the present suit, admittedly issues are framed at Exh.47, both the parties adduced evidence, matter was for final argument. In the meantime, the plaintiff sought amendment on the point of dispossession and claiming relief of possession, the said

amendment application was rejected on 26.08.2013, matter went up to the Apex Court and said order is set aside by Hon'ble Apex Court on 12.12.2025, with direction to dispose of suit within six months after amendment is carried out. This facts shows that, application for framing of additional issues is filed long back on 27.07.2013, prior to the rejection of amendment application.

06. Therefore, considering the pleadings of the parties, I proceed to discuss whether the proposed issues are material issues to be framed for final adjudication. Admittedly, in plaint the plaintiff has pleaded in Para 4A i.e. "मूळ वादी बळीराम यांनी सदर मिळकत स्वतःच्या नोकरीच्या पैशातून दिनांक ३१.०३.१९५६ रोजी खरेदी केलेली असून ती त्यांची स्वःकष्टार्जित मिळकत होती..... प्रतिवादी क्र.१ चे पती सोलापूर येथे पोलीस खात्यात नोकरीत होते..... प्रतिवादी चे पती पांडूरंग याने मयत बळीराम यांना शेतकरी म्हणून रेकॉर्ड करण्याकरिता म्हणून विनंती करून प्रतिवादी क्र.१ यांच्या नांवे काही जमीन करण्याची विनंती केली. त्यामुळे बळीराम यांनी प्रतिवादी क्र.१ यांचा काही संबंध नसताना तलाठीकडे केवळ अर्ज देऊन प्रतिवादी क्र.१ चे नांवे पोकळ नोंदीने दाव्यातील जमीन नांवे केली..... प्रतिवादी क्र.१ ला दावा मिळकतीबाबत केव्हाही कायदेशीर हक्क नव्हता. फेरफार नं.५८ ने प्रतिवादी क्र.१ च्या नांवे झालेली नोंद, बिगर दस्त व कोणत्याही कायदेशीर आधाराशिवाय झाल्याने पोकळ आहे. On the other hand, the defendant Nos. 2 to 4 denied the above facts in their written statement. According to them, the suit property original Gat No.795 was joint family property of the plaintiff and defendant No.1, jointly cultivated by them. In July 1973, family partition was carried out and name of defendant No.1 was mutated as per family partition, Ferfar No.68 was given effect on

09.09.1973, in this way, defendant No.1 deceased Pandurang became owner and possessor of suit property.

07. Considering the alleged facts by the plaintiff and denied by defendant Nos.2 to 4. My Ld. Predecessor has framed **issue Nos.1 to 3 i.e. whether the plaintiff prove that he is owner of suit land, he is in possession and cultivation over the land, does defendants prove that, defendant No.1 and her husband got suit property in a partition took place in the year 1973.** In my view, there is no case of plaintiff that, defendant No.1 deceased husband Pandurang More has caused the mutation entry by fraud. It is simple pleading that, the defendant No.1s deceased husband Pandurang was serving in the police department, requested the Baliram for some land in his name, thereby, making application name of defendant No.1 deceased husband Pandurang causing to be mutated in the revenue record. On the other hand, defendant Nos.2 to 4 stand is that, the said name of husband of defendant No.1 mutated vide Ferfar No.68 as per the family partition. In my view, **issue Nos.1 and 3** covers the above disputed fact-in-issue. Therefore, the proposed **issue No.1** is not required to be framed.

08. Now question remains only to the respect of **proposed issue No.4.** Ld. Advocate for the defendant vehemently argued that, once name is mutated in revenue record as per the partition in the family of defendant No.1 deceased husband Pandurang in 1973, now the plaintiff is estopped by conduct from claiming the relief in the suit. It is the disputed fact in the suit that, the plaintiff claiming self acquired property and defendant No.1 claiming the joint family property and partition in 1973. In this background, the issues framed

at Exh.47 are the material issue framed for final adjudication of the dispute in the suit.

09. Admittedly, the evidence of both the parties is over. Now, only amendment caused as per the order of Hon'ble Apex Court and additional issue is framed. In my view, to that extent, the additional evidence is to be recorded of both the parties and matter to be dispose of on or before 11.07.2026. Therefore, in view of above discussion, I am of the view that, the proposed issue Nos.1 and 4 are not required to be framed in view of issues framed at Exh.47. Hence, I proceed to pass the following order:

**ORDER**

01. An application is hereby rejected.
02. As matter is time bound, it will be kept for hearing on day to day basis for the evidence on the point of additional issue framed. Both the parties to take note of this order and to cooperate to dispose of the suit within the time limit as directed by Hon'ble Apex Court.
03. Costs in cause.

Date:- 09.02.2026

(P. B. Lokhande)  
Civil Judge, Senior Division, Barshi.

**C E R T I F I C A T E**

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

Name of the Stenographer : Shripad N. Chilka, Steno Grade-2.  
Court : Civil Court Senior Division, Barshi.  
Judgment/Order signed by the P. O. on : 09.02.2026  
Judgment / Order uploaded on : 09.02.2026