

MHSO130017822011



R.C.S. No.711/2011
Vijaykumar Vs. Madhukar.

ORDER BELOW EXHIBIT- 81

01. The plaintiffs have filed the present application for deletion of issue No.3 and 4 framed at Exh.25.

02. The plaintiffs contended that Ld. Predecessor has observed while passing order below Exh.31 that the suit of the plaintiff is not filed under the provisions of the Maharashtra Rent Control Act, so the issues relating to Rent Control are not necessary. Thus, he had recast the issues and deleted issue No.3 and 4 as per the order passed below Exh.31. But the issue No.3 and 4 are remained to be deleted as per the order. Hence, the plaintiffs prayed for deletion of those issues.

03. The defendant filed the say at Exh.83 and thereby strongly opposed the application. He contended that it is not necessary to see the observation made by predecessor, in fact, it is only necessary to see what order has been passed. He further contended that it is necessary to recast the issue as per pleading of the parties and proper issues need to be framed. Therefore, he prayed for rejection of the application of the plaintiffs and prayed for recasting of the issues as per pleading of both parties.

04. Perused the record before me. Heard both sides.

05. It appears that the plaintiffs have filed the application below Exh.31 for deletion of the issue No.3 and 4 which are framed below Exh.25 and addition of new issues. It discloses that my Ld. predecessor has passed detailed order below Exh.31 and thereby recasted the issues framed at Exh.25 on 17/06/2017. My Ld. predecessor has observed in para No.3 of the order that *“the plaintiffs have not filed the suit under Maharashtra Rent Control Act. However, issues framed at Exh.25 are framed under the impression that this suit is filed under that Act. Moreover, it is also seen that while framing issue No.2 it is framed that “Do the plaintiffs prove that the defendant is in legal possession of the suit property?” However, it is contention of the plaintiff that the defendant is in illegal possession. Therefore, that issue needs to be recasted.”*

06. It also appears that as per the order, my Ld. predecessor has deleted issue No.3 and 4 which are framed at Exh.25 and recasted issue No.2 and thereby copy of the recasted issues has been attached with Exh.25 on 17/06/2017. It clearly discloses that Ld. predecessor has already recasted and deleted issue No.3 and 4 which are framed at Exh.25 dated 01/04/2013. The defendant contended that it is necessary to recast the issues as per the pleading of the parties, however, as discussed herein above,

my Ld. predecessor has already recasted the issues by passing detail order below Exh.31. Hence, the contention of the defendant is not maintainable. In such circumstances considering the order below Exh.31 and recasted issues below Exh.25 dated 17/06/2017, it should be considered. Hence, considering the contention of the application of the plaintiffs the recasted issues framed on 17/06/2017 should be considered for adjudication of the matter. Hence, I proceed to pass following order;

ORDER

An application Exh.81 is filed.

(Dictated and pronounced in open Court.)

Barshi.
Date : 02/08/2025.

(Smt. P.V. Raut)
Jt. Civil Judge (J.D.), Barshi.

CERTIFICATE

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

(a)	Name of the Stenographer	:	Shri.S.R. Barangule
(b)	Court	:	Smt. P.V. Raut, Jt.C.J.J.D.&J.M.F.C. Barshi.
(c)	Judgment /Order declared on	:	02/08/2025
(d)	Judgment /Order signed by P.O. on	:	04/08/2025
(e)	Judgment /Order uploaded on	:	04/08/2025