

ORDER BELOW EXHIBIT NO. 73 IN R.C.S. NO. 186/2014.
(MHST-070013872014)

Krishna Vishnu Jagdale & ors. -- Plaintiffs

Vs.

Chandrakant Laxman Jagdale & ors. --- Defendants

The present application is filed by Defendant No. 2B seeking the framing of an additional issue. The plaintiff has filed a say overleaf and has resisted the application. I have perused the application as well as the say and heard the learned advocates for both parties.

2. Defendant No. 2B has contended that, as per the pleadings of the plaintiff, it is claimed that the suit property, i.e., Gat No. 2B78 (old Gat No. 2B99, i.e., original Survey No. 2B5), was in possession of Vishnu Sakharam Jagdale as a sole tenant prior to 01/04/1957, and that he became the owner thereof under Section 32G of the Tenancy Act. Defendant No. 2B, in her written statement, has contended that there existed a joint family of Sakharam Rama Jagdale and that the suit property was purchased in the name of Vishnu for the benefit of the joint family. It is further contended that the certificate under Section 32M was issued in the name of Vishnu in his capacity as the manager of the joint family, and that Sakharam was the tenant of the suit property as on 01/04/1957. Therefore, according to Defendant No. 2B, the following issue is necessary for proper adjudication:

“ Whether the plaintiff proves that the deceased Vishnu Sakharam Jagdale was the sole tenant in the suit property on 01/04/1957, i.e., on Tiller’s Day ?”

3. On the other hand, the plaintiff has contended that the issues at Exh. 22 have already been framed in accordance with the

pleadings of both parties and, therefore, the present application is not tenable and deserves to be rejected.

4. As per Order XIV of the Code of Civil Procedure, issues are to be framed on material propositions of fact or law affirmed by one party and denied by the other. Further, under Order XIV Rule 5 of the Code of Civil Procedure, the Court may, at any time before passing a decree, amend the issues or frame additional issues on such terms as it thinks fit, if the same are necessary for determining the matters in controversy between the parties.

5. In the present case, though the matter is at the stage of arguments, it is settled that the Court has the power to frame additional issues at any stage before the pronouncement of the judgment, if the same arise from the pleadings of the parties. Upon perusal of the plaint and the written statement at Exh. 17 filed by Defendant No. 2B, it appears that the plaintiff has asserted that Vishnu Sakharam Jagdale was the sole tenant of Balkrishna Narhar Kulkarni, whereas Defendant No. 2B has specifically contended that there was a joint family of Sakharam Rama Jagdale and that the suit property was acquired in the name of Vishnu for the benefit of the joint family, including Radhabai Hari Jagdale. Thus, there is a clear dispute as to whether Vishnu was the sole tenant or was representing the joint family. For effective adjudication of this controversy, the proposed issue is necessary.

6. Therefore, in view of the above discussion and considering the legal position, I find it just and proper to frame an additional issue as prayed. Hence, I pass the following order:

ORDER

1. The application (Exh. 73) is allowed.
2. The following additional issue is framed as Issue No. 7:
“Whether the plaintiff proves that the deceased Vishnu Sakharam Jagdale was the sole tenant in the suit property on 01/04/1957, i.e., on Tiller’s Day?”
3. Costs shall follow the result of the main suit.

Place :- Karad.
Date :- 09/06/2026.

(Smt. A.V. Mohite)
2nd Jt. Civil Judge (Jr. Div.), Karad.
Tal. Karad, Dist. Satara.