

CNR No. MHWR090000242019



IN THE COURT OF CIVIL JUDGE (JUNIOR DIVISION), KARANJA GHA.
(Presided Over by Diksha D. Vighne)

Regular Civil Suit No. 02/2019

Ganesh Fulchand Akode (Died)
Left behind legal heirs of Plaintiff

Pushpa Ganesh Akode + 1 ----- **Plaintiffs**

-Versus-

Shri Ashok Premshankar Paliwal +1 ----- **Defendants.**

Appearance:- Advocate for Plaintiffs :- Shri. Sayyad A. Ali,
Advocate for Defendants :- Shri. J. D. Topale,

Order Below Exh.48
(Passed on 11/06/2026)

This is an application filed by defendants for framing additional issues under Order XIV Rule 5 of C.P.C.

2. It is stated and submitted by defendants that plaintiff has filed present suit for declaration, possession and injunction against defendants. So far as concern the prayer of possession, the plaintiffs must have to pay court fees stamp on present market value of the property. But, in this case plaintiff has paid court fees stamp on the value of sale deed of plot i.e. on Rs.25,000/- which was executed before 1985. The said valuation of the suit for possession is not as per present market value. The said valuation is not proper and too less of the market value. At present market value of the plot is Rs.5,000/- per

square feet. The plaintiffs have not produced valuation report of Sub Registrar Karanja Gha. for showing market value of the suit plot. Therefore, it is necessary to frame additional issue in this suit on the point of court fee and jurisdiction as under.

- i. Do the plaintiffs prove that their suit for possession is properly valued and they paid proper court fees stamp thereon ?

3. According to defendant the said issue is very necessary in the interest of justices. Hence, prayed for allow this application and frame aforesaid issue in the interest of justice.

4. The learned advocate for plaintiffs filed his reply below Exh.49 and oppose this application. According to him defendants again intentionally, malafidely and with ulterior motive to mislead this court has filed present application like old wine in new bottle. Defendants already tried their level best to reject the suit of plaintiffs by filing application under Order VII Rule 11, in which they had raise same objection about valuation of suit property. This court has thoroughly deal with this issue by deciding Exh.31, dt.15.10.2025. If defendant aggrieved upon then they have liberty to challenge the same before appropriate forum. But, in present case defendants has not challenge the same, it means they have accepted the same and point in controversy about valuation of suit property raised by defendant are finally adjudicated.

5. It is further submitted by him that while perusing the plaintiffs suit and its prayer it is crystal clear that the suit is purely for possession and cancellation of sale deed dt.29.04.1985 and 06.02.1989. Plaintiffs have already paid proper and corrected court

fees. The value of suit is depended upon subject matter and document. Market value does not become decisive of valuation merely because litigation involved immovable property. The suit has value for determination of pecuniary jurisdiction of court and for fixation of court fee. This court has already discuss that valuation of present suit on the basis of pleading in plaint at Exh.31. Now, nothing remain to be decided pertaining to valuation of suit. Hence, there is no need to frame additional issue. The case is already fixed for evidence. Hence, at this belated stage application is liable to rejected.

6. On perusal of application and say thereon, as well as, after hearing both sides following points are arise for my determination. There findings along with reasons are as follows.

Sr.No.	Points	Finding
1.	Whether additional issue regarding valuation of suit for possession and deficient court fee required to be frame for determination of real dispute between parties?	Yes
2.	What order?	Application is Allowed.

Reasons

As to point no.1 and 2 :-

7. As per Order 14 Rule 5 of CPC, 'the court may at any time before passing a decree amend the issues or frame additional issue on such terms as it thinks fit, and all such amendments on additional issues as may be necessary for determining the matters in controversy between the parties shall be so made or framed'.

8. On bare perusal of this provision, it is clear that additional issues can be framed by court at any time before passing decree for the

purpose of determining the matter in controversy between the parties. Therefore, submission of learned advocate for plaintiff that application is filed at belated stage is contrary to this provision and not tenable.

9. I have gone through the pleadings of both parties and issues framed at Exh.19 by my learned predecessor. I have also perused order of this court passed below Exh.31 about rejection of plaint. It is seen from the issues that no issue regarding under valuation of court fee and payment of deficient court fees has framed by my learned predecessor. On perusal of written statement of defendants it is seen from para no.8 that defendants have pleaded that “plaintiff has not properly calculated the valuation of suit property. The plaintiffs have not paid court fees stamp properly”. However, the said issue was not frame below Exh.19. Thereafter, issue of under valuation of court fee and deficient court fees has raised by defendant in his application below Exh.31. The same has decided and application of defendant was rejected. However, it is necessary to mention here that while deciding application of rejection of plaint only averment in plaint were looked into and on the face value of plaint that application was decided. It does not mean that issues raised in application of rejection of plaint are finally adjudicated because at that time contentions of defendants in his written statement were not considered. Therefore, even if the issue of under valuation and deficient court fees was decided while deciding application of rejection of plaint, it does not create any bar for framing that issue and decide it on merit. Specially when the said issue is asserted by one party and denied by other parties in their pleadings.

10. It is seen from the written statement that issue of under valuation and deficient court fee was raised by defendants. It is an

issue of law. As per rule of evidence the burden of proof as to any particular fact lies on that person who wishes the court to believe in its existence. That means in present suit defendants wishes the court to believe that plaintiff has not properly value his suit and paid deficient court fees. Therefore, burden lies on the shoulder of defendants to prove that suit is under valued and plaintiffs have paid deficient court fees. Moreover, it is seen that issues were framed on 08.12.2021. That means defendants had received sufficient time to raise this issue. However, they have filed present application after 5 years of framing of issues. Thus, the delay caused by defendants shall be compensated by imposing certain cost. As well as, when issue of under valuation of court fees has raised then issue of pecuniary jurisdiction of this court has also come before. Because this court has pecuniary jurisdiction to decide suit valued upto 5 lakh only. Therefore, issue of jurisdiction is also a necessary issue which is required to be frame for adjudication of dispute. Hence, considering aforesaid reason, I answer point no.1 in affirmative and in answer to point no.2, I pass following order.

ORDER

1. Application is allowed subject to cost of Rs.500/- payable to plaintiffs by defendants.
2. Additional Issues regarding under valuation of court fees and deficient court fees and jurisdiction of court are framed below Exh.19 as per Order XIV Rule 5(1) of C.P.C.

Date : 11-06-2026.

(Diksha D. Vighne)
Civil Judge (Jr.Dn.)
Karanja Gha.