

**ORDER BELOW EXH.38**

(Passed on this 7<sup>th</sup> day of January, 2019)

1. This is the application filed by the defendants under Order 14 Rule 5 of C.P.C.
2. It is contended by the defendants that, defendants have raised legal issues in his written statement. Those legal issues are not framed in exh. 31. Hence, defendants have prayed for additional issues. It is contended by the plaintiff that, this application is filed by defendants only to prolong the present suit. Defendants have not filed any affidavit in support to present application. Hence, it is prayed that, application be rejected.
3. Heard Learned Advocates for both the parties. They argued as per their pleadings.
4. Considered arguments of learned Advocates for both parties. Perused the pleadings of both parties. Defendants prayed for framing issue “Whether the plaintiff prove that, she had made RCC construction over the suit property”. My learned predecessor has framed the issues at exh. 31, in which first issue is framed as, Whether the plaintiff prove that, she is the owner of the suit property?. Plaintiff has filed this present suit for recovery of possession. In such circumstances, issue framed by my learned predecessor suffice the purpose. Hence, there is no need to frame issue regarding RCC construction as prayed by defendants. I found that, defendants have taken objection about limitation for filing suit, non-joinder of necessary parties and about suit valuation and stamp duty. I found that it is necessary to frame these legal issues for the decision of the present suit on merits. Hence, I pass following order.

**Order**

1. Application is partly allowed.
2. Following issues are framed at exh. 31.
  - 4-A) Whether the suit is bad for non-joinder of necessary parties?
  - 4-B) Whether the suit is barred by limitation?

4-C) Whether the suit is properly valued? And Whether the plaintiff has paid proper stamp duty?

Umarkhed  
Date :07/01/2019

Sd/-  
[Smt. S.S.Jadhav]  
Civil Judge(Jr.Dn.)  
Umarkhed



