

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p><b><u>WPMS No.242 of 2026</u></b></p> <p><b><u>Hon'ble Alok Mahra, J.</u></b></p> <p>Mr. Navneet Kaushik, learned counsel for the petitioner.</p> <p>2. This petition under Article 226 of the Constitution of India has been filed by the petitioner seeking issuance of a writ in the nature of certiorari for quashing the impugned order dated 14.01.2026 passed by the learned 4th Additional Civil Judge (Senior Division) in Original Suit No. 397 of 2023, whereby the learned Trial Court has rejected the petitioner's application for framing three additional issues in the said suit.</p> <p>3. Learned counsel for the petitioner submits that the respondent-plaintiff has instituted the aforesaid suit seeking a decree of partition and permanent injunction in respect of the shop in question, pleading therein that the respondent-plaintiff is the owner of one-fourth share in the undivided property, whereas the petitioner-defendant is the owner of the remaining three-fourth share.</p> <p>4. It is further submitted that the property in question was jointly owned by the petitioner and his late father. Upon the death of the father of the parties, the petitioner became owner of his existing one-half share along with the other one-half share devolving upon him, whereas the respondent-plaintiff acquired only one-fourth share in the property, making the petitioner the owner of three-fourth share of the disputed property.</p> <p>5. Learned counsel further submits</p>

that subsequently, the respondent-plaintiff moved an amendment application asserting that the father of the parties had executed a last Will, and on the basis of the said Will, the respondent-plaintiff claimed ownership of one-fourth share in the property. Though objections were filed by the petitioner-defendant, the amendment application was allowed vide order dated 04.11.2025. Thereafter, the petitioner-defendant filed an additional written statement, specifically denying the genuineness and validity of the alleged Will, and moved an application seeking framing of the following three additional issues:

*(i) Whether the father of the parties executed the alleged Will as propounded by the plaintiff in his replication and denied by the defendant in his additional written statement?*

*(ii) Whether the alleged Will as is a forged will and not duly registered?*

*(iii) Whether the sister's son of the parties are necessary parties to the suit, and if so, its legal effect?*

6. Learned counsel for the petitioner further submits that the learned Trial Court, vide the impugned order dated 14.01.2026, dismissed the said application on the ground that the factum of the Will would be decided after leading evidence. It is contended that unless specific issues regarding the validity and genuineness of the Will are framed, no effective evidence can be led or adjudicated upon. Consequently, the refusal to frame issues relating to the Will would cause serious prejudice to the petitioner, as the core dispute regarding the Will would remain unexamined.

7. This Court finds substance in the submissions advanced by learned counsel for the petitioner.
8. Issue notice to the respondents, returnable within six weeks.
9. List the matter after service of notice upon the respondents.
10. Counter-affidavit, if any, be filed by the respondent within the stipulated period.
11. In the meantime, further proceedings of Original Suit No. 397 of 2023 shall remain stayed till the next date of listing.
12. Stay application (I.A. No. 1 of 2026) stands disposed of.
13. Urgency application (I.A. No. 2 of 2026) also stands disposed of.

**(Alok Mahra, J.)**  
Vacation Judge  
23.01.2026

Mamta