

“Whether the Defendants prove that Plaintiff is not the owner of the suit property ?”

5. However, the Small Causes Court did not frame the aforesaid issue. Accordingly, the Petitioners herein, who are the Defendants before the Small Causes Court, vide Exh.51, applied for framing of the aforesaid issue. The Respondent-Plaintiff, on 24/09/2014, recorded no objection to the framing of the said issue. The learned Small Causes Court, however, by the impugned order, has declined to frame the issue.

6. The suit, as of now, is at the stage of framing of issues. From the pleadings of the parties, as also the aforesaid circumstances wherein the Respondent-Plaintiff had himself proposed the framing of the aforesaid issue, such issue, ought to have been framed by the learned Small Causes Court. Accordingly, the impugned order is modified and in addition to the issues already framed, the Small Causes Court is directed to frame the aforesaid issue as an additional issue in the suit.

7. It is further clarified that in the context of the issue framed by the Small Causes Court, in its order dated 12/02/2015, the Defendants shall be entitled to contend that this is not a case of denial of title.

8. Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

9. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)