



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5546 OF 2023

Anand S/o Wasumal Gangwani .Vs. Ramesh S/o Narayanas Gangwani and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.R. Charpe, Advocate for petitioner.

Shri D.N. Dani, Advocate for respondent No.1.

CORAM : ANIL S. KILOR, J.

DATED : 29/08/2023

1. The application moved by the petitioner for framing of additional issues came to be rejected vide impugned order dated 16.08.2023. Hence, this petition.

2. The petitioner is the original defendant No.5 who was subsequently transpose as plaintiff No.2.

3. In light of the pleading in the plaint and also the pleading in the written statement, after framing the issues the petitioner sought to add certain issues, which read thus.

1. *Whether Gullumal Gangwani can execute Will deed of property which is in name of Wasumal Gangwani i.e. father of plaintiff No.1?*
2. *Whether Gullumal can execute Will deed of all three different properties?*
3. *Does plaintiff No.2 prove that name of his father was mutated in house No.352 and 353 and same was come in record in City Survey record in Chalta No.442 and 443?*
4. *Does plaintiff No.2 prove that Gullumal has no right to execute Will deed of said property and defendant No.1 is not entitled alone for the said property?"*

4. The learned trial Court rejected the application on the ground that the issue No.2 i.e. “whether plaintiff proves that the Will deed executed by the Gullumal Gangwani in favour of defendant No.1 is not binding upon him ?” covers all the issues which the petitioner is seeking to frame as additional issue.

5. The learned counsel for the petitioner has expressed apprehension that, if the additional issues are not frame, the parties may not lead evidence on the above referred issues.

6. I do not find any substance in such apprehension, for the reason that, once the trial Court has rightly made it clear in the impugned order that, the issue No.2 covers all the issues sought to be added by the petitioner, all the parties to the suit have now got the knowledge about the case of the petitioner.

7. In the circumstances, I do not find any error committed by the learned trial Court. Accordingly, the writ petition is **dismissed**.

JUDGE

