



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 5305 OF 2025

Ravindra Dwarkaprasad Pachori, Aged 51 years,
Occ: Business, R/o Dr.Majumdar Ward, At Po. Hinganghat,
Tahsil Hinganghat, District Wardha (MS).

PETITIONER

VERSUS

Anupkumar Madhavdas Mohta, Age 59 years,
Occ:Business, R/o Ram Mandir Ward, At Po. Hinganghat,
Tahsil Hinganghat, District Wardha (MS).

RESPONDENT

Shri R.D. Hajare, counsel for the petitioner.
Shri A.M. Ghare, counsel for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : JANUARY 30, 2026

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. The petitioner challenges the order dated 17.03.2025 passed by the trial Court rejecting the application at Exhibit 60 under Order XIV Rule 5 of the Code of Civil Procedure, 1908 (for short, 'the Code').

3. The petitioner is the original defendant in Regular Civil Suit No.46 of 2019 filed by the respondent seeking recovery of rent and eviction. In the suit the defendant appeared and filed his written statement and after the evidence of the defendant was closed, he filed an application for recasting /framing of additional issues. The application was resisted by the respondent-plaintiff and it came to be rejected by order dated 17.03.2025, which is subjected to challenge by way of instant petition.

4. Primary contention of Shri R.D. Hajare, counsel for the petitioner is that a crucial question about legal ownership of the plaintiff-landlord is required to be framed and since no issue regarding plaintiff's ownership and tenancy rights has been framed, an additional issue was required to be framed as to whether the rent agreement which was executed by the plaintiff with the defendant was legal and proper and secondly whether the plaintiff has legal ownership or tenancy rights over the suit premises to claim rent and seek eviction of the defendant. The learned counsel for the petitioner submitted that these issues are most relevant issues and go to the root of the matter and were required to be framed.

5. Opposing the petition, Shri A.M. Ghare, learned counsel for the respondent submitted that the application for recasting of issue was filed after the evidence of the defendant was over and the same is rightly rejected. He also submitted that in view of the provision of Order L of the Code, the provisions relating to 'settlement of issues' are excluded and as such the application deserved to be rejected. To buttress his submissions, he relied on the judgment in *Salim Miyan Khan Lassiwale & Another Versus Majlis Madarsa-E-Islamia Society & Others* [(2022) 6 Mah.L.J. 441].

6. While considering the controversy involved in the suit, it has to be seen that the trial Court has already framed the issues on 20.11.2019 at

Exhibit 09 based on the pleadings of the parties and the suit has proceeded further. After the evidence was led and defendant filed the evidence closing pursis, the application under Order XIV Rule 5 of the Code was filed by the defendant. A perusal of the issues earlier framed by the trial Court clearly reflects that all the relevant issues for deciding the suit for eviction are already framed. The parties have led evidence to discharge their respective burden. The additional issues suggested by the defendant challenging the ownership of the plaintiff-landlord are not necessary and not required to be framed, considering the nature of the suit. The suit is filed by the landlord seeking eviction of the tenant and it will be decided on the basis of evidence on record even with respect to aspect of tenancy of the defendant. As such, the application filed by the defendant at the fag end of the trial is definitely an attempt to prolong the proceedings. As observed by the trial Court, the proposed issues are not found necessary at all for deciding the controversy involved in the suit.

7. A perusal of the impugned order shows that the trial Court has given due consideration to all the relevant aspects. It is also observed that after the evidence of the defendant was closed, the defendant-tenant has filed several applications for re-opening the evidence and attempted to examine the witnesses only with an intention to prolong the suit. By observing the overall conduct of the defenant-tenant, the trial Court has rejected the application.

8. On a perusal of the pleadings of the parties and the issues already framed, I do not find any perversity with the reasons recorded by the trial Court. As such, no case is made out for causing indulgence under Article 227 of the Constitution of India. The writ petition is dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)

APTE