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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 168 OF 2014
IN
TESTAMENTARY SUIT NO. 61 OF 2012
IN
TESTAMENTARY PETITION NO. 748 OF 2011**

Jaykumar Jamnadas Giyanani	...Plaintiff
<i>Versus</i>	
Vanita S. Peswani Nee	...Defendant
Chandra J. Giyanani	

**Mr. Agnel C., with Mr. Sheriyar Patel i/b M/s. Mulla & Mulla, for
the Plaintiff.**
Mr. Charanjeet Chanderpal, for Defendant No. 2.

CORAM: G.S. PATEL, J
DATED: 8th June 2015

PC:-

1. This is a Chamber Summons filed by Defendant No. 2 seeking that certain additional issues be framed in the suit. The Petition was originally filed for probate of the Will dated 5th July 1990 said to have been left by one Jamnadas P. Giyanani. Issues were framed, upon a caveat having been filed and the Petition being renumbered as a Suit on 25th March 2015.

2. According to Mr. Chanderpai, learned Advocate for the 2nd Defendant, there have been subsequent developments in April 2013 necessitating framing of additional issues. A draft of these additional issues is annexed to the schedule to the Chamber Summons.

3. I have considered the draft additional issues. None of these can probably be framed as issues in the present proceedings which are for probate, i.e., where the only question before the Court is whether the propounded Will is proved in its solemn form. If the 2nd Defendant has any claim on title to any particular property or properties, his remedies lie elsewhere and they are entirely unaffected by the probate petition, for a simple reason that issues of probate do not decide question of title.

4. The Chamber Summons is disposed of with these observations, specifically leaving open all rights and remedies that may be available to both the sides in respect of any of the properties of the deceased.

(G. S. PATEL, J.)