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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12481 OF 2016

Sau Radha Shamrao Mhatre ...Petitioner
vs
Vinay Ramakant Pansare & Ors. ...Respondents

Mr P.M.Arjunwadkar for the petitioner.

**CORAM : N. M. JAMDAR J.
26 OCTOBER, 2016**

P.C. :

Not on board. Taken on production board in view of the *praecipe* filed by the Petitioner.

2 Heard learned counsel for the Petitioner.

3 The Petitioner has challenged the order passed on 21 March 2016 passed by learned Jt. Civil Judge, Uran, rejecting the application taken out by the Petitioner for framing additional issues. The issues sought to be framed by the Petitioner are regarding mutation entry and partition-deed.

4 Though the learned Civil Judge while rejecting the application has gone on merits of the rival contentions, the said view will have to be considered as a *prima facie* view as even though issues

are not so framed, it does not preclude the parties from advancing of such arguments in furtherance of their pleadings and lead evidence. Framing of an issue is to draw the attention of the parties at the controversy involved and merely because the particular issue is not framed does not mean that the parties cannot advance their arguments in furtherance of their case. Therefore, though the learned Civil Judge, has rejected the application for framing the issues, the Petitioner is not precluded from advancing of contentions that are available as regarding the subject matter of issues sought to be framed. Keeping all contentions of the parties open in that regard, the Writ Petition is disposed of.

(N. M. JAMDAR J.)