

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 85 OF 2016

Phulabai Haribhau Shinde

.. Petitioner

Versus

Subhash Chagan Bhise

.. Respondent

Shri S. V. Natu, Advocate for the Petitioner.

Shri P. B. Gapat, Advocate h/f Shri K. J. Ghute Patil, Advocate
for the Respondent.

CORAM : S. V. GANGAPURWALA , J.

DATE : 21ST APRIL, 2017.

PER COURT :

. The present petition is filed against an order rejecting an application for framing of additional issues.

2. The petitioner original plaintiff has filed suit for possession. The Trial Court framed issues. The matter was ripe for evidence. The present petitioner filed an application for framing of additional issues.

3. Mr. Natu, the learned counsel submits that, the person who claims his right upon a particular document has to prove the said document. The plaintiff is claiming on the basis of title, as such those issues are relevant and material.

4. The parties are aware of the pleadings and the case made out by the adversary party. The issues have been framed by the Court, wherein plaintiff is required to prove that the suit property was allotted to the plaintiff in partition and plaintiff is illegally dispossessed by the defendant. The documents are relied by the defendant, naturally the defendant would prove those documents. Non framing of issue would not be fatal, as parties know the case of each other. The parties would lead evidence accordingly. If a document is not admitted, a party relying on the document has to prove the document. The observations made by the learned Judge while passing the impugned order are limited to the extent of deciding said application and the suit will have to be decided on the basis of evidence adduced by the parties. As such the order impugned needs no interference. The writ petition is disposed of. No costs.

[S. V. GANGAPURWALA, J.]