

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13205 OF 2016**

Lovely Marketing Pvt. Ltd. & anr. ... Petitioners

Vs.

Eknath Manohar Kale & Ors. ... Respondents

Mr.P.J. Thorat for the Petitioners

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JUNE 13, 2017**

P.C. :

1. Not on Board. Upon mentioning, taken on board.
2. This pertains to recasting of issues. The learned Civil Judge Senior Division, Nasik has framed issues on 15.7.2015 under exhibit 96 in Regular Civil Suit No.440 of 2007. The learned Counsel for the petitioners submits that Respondent Nos.13 and 15 have moved an application that the issues are to be added and resettled, especially on the point that whether final plot No.95D is the same as Survey No.611/2+3/1/1 of Nasik?
3. The learned Counsel has submitted that the plaintiffs seek relief on the basis of the agreement dated 29.1.1993 and the defendants i.e., the present petitioners, are interested and are

opposing the suit on a separate agreement of 1999. According to him, as per the Town Planning Scheme, survey numbers were converted into final plot numbers prior to 1993, however, the property is described as Survey Number. He submits that it is a very material point and to that effect, it is necessary for the Court to frame the issue.

4. Perused the order dated 26.9.2016. Also read the issues at exhibit 96. Considering the nature of the suit, I am of the view that at this stage, no recasting of the issues is required. Defendant Nos.13 and 15 have filed their written statement raising the issue of giving final plot numbers before 1993 to the lands in Nasik and, therefore, at the time of cross-examination of the plaintiffs on the basis of their written statements, the plaintiffs can be cross-examined and the case of the defendants can be put forth. The Court at the time of deciding the issues also needs to appreciate the defence taken by the defendants and has power to add, recast or alter the issue at any stage before passing the judgment, if required.

5. Hence, the petition is dismissed.

(MRIDULA BHATKAR, J.)