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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1075 OF 2015

Shri Gorakhnath Krishna ShindePetitioner
versus
The State of MaharashtraRespondent

with
CRIMINAL APPLICATION NO.283 OF 2015
IN
CRIMINAL WRIT PETITION NO.1075 OF 2015

Mr. Prabhu Hiralal JethaniApplicant
In the matter of :
Shri Gorakhnath Krishna ShindePetitioner
versus
The State of MaharashtraRespondent

Mr. Ashok Mundargi, senior counsel with Mr.Sanjeev Kadam, Mr. Vinayak Patil, Mr.Siddharth Karpe, advocate for the petitioner.
Mr. K. V. Saste, APP for the respondent.
Mr. Uday P. Warunjikar, advocate for the applicant/intervenor.

CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.

DATED : 29th JUNE, 2015.

P.C.:

Heard Mr. Mundargi, learned senior counsel representing the petitioner, Mr. Warunjikar, learned counsel for the intervenor and learned APP appearing for the State.

2 Writ Petition No. 1075 of 2015 is filed challenging the order dated 2nd/ 3rd March, 2015 passed by the Superintendent of Police, Satara under Section 39 of the Bombay Police Act, 1951. Criminal Application

No. 283 of 2015 is filed by one Mr.Prabhu Hiralal Jethani for intervention in the said petition.

3 The impugned order reveals that there is a dispute between the petitioner and intervenor in respect of “Bonne-View” Bungalow, situated at C.T.S.No.254, Malcum Peth, Mahableshwar, Dist.Satara, and suits in connection with the said property/bungalow are pending in the Civil Court. Apprehending disturbance of public peace, the Superintendent of Police, Satara, in exercise of powers under Section 39 of the Bombay Police Act, 1951, directed the Police Inspector, Satara to take the possession of the said bungalow. Accordingly, the Police Inspector, Mahabaleshwar took the possession of the said bungalow under panchanama dated 10th March, 2015, a copy of which is annexed at page 183. The panchanama discloses that the possession of the said bungalow was taken from Mr.Yogesh Shinde, constituted attorney and son of the petitioner, and thereafter, the said bungalow is sealed.

4 Mr. Saste, learned APP has placed on record an order dated 21st June, 2015, passed by the Superintendent of Police, Satara. The said order indicates that the order of status-quo, in respect of the said bungalow, passed in writ petition No. 8425 of 2003 by the Division Bench of this Court was not brought to his notice. Therefore, by the said order, the Superintendent of Police, Satara, has withdrawn the order

impugned in the instant petition. Mr. Saste, learned APP, having taken instructions from the Officer concerned, makes a statement that since the possession of the bungalow has been taken from Mr.Yogesh Shinde, constituted attorney and son of the petitioner, same shall be restored back to him. The statement is accepted.

5 Mr. Warunjikar, learned counsel for the intervenor, stated that in fact the intervenor is in possession of the said bungalow and the land appurtenant thereto. He submits there is a recital in the sale deed in his favour to that effect executed by the petitioner. He further submits that the B summary report filed in C.R.No.17 of 2014 registered with Mahableshwar Police Station also discloses that the intervenor is in possession and the petitioner is his gardener. Mr. Mundargi, learned counsel for the petitioner, however, disputed the statements of Mr. Warunjikar.

6 We are not required to enter into the controversy regarding title as well as lawful possession of the respective parties in the said property. The statement of learned APP as well as the panchanama reveals that the possession of the said bungalow was taken from Mr. Yogesh Shinde, constituted attorney and son of the petitioner. The order under which possession was taken has been withdrawn. Learned APP has also made a statement that the possession is not yet given to

any party and since possession of the bungalow was taken from the son of the petitioner, the same shall be restored back to the him, within a week from today. The statement is accepted.

7 In the above circumstances, the prayers made in the petition does not survive for consideration. The petition is, accordingly, dismissed.

8 In view of the disposal of the petition, the civil application will also not survive for consideration and the same is also dismissed.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)