

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

**CRIMINAL WRIT PETITION NO. 1235 OF 2015**

Anand S/o Ramkumar Gupta,  
Age : 32 years, Occu.: Service,  
R/o Shivajinagar, E-Sector,  
Gupta Provision, Garkheda Parisar,  
Aurangabad  
At present residing at Flat No.A-803,  
Survey No.32, Sarthak Beauileu,  
Opposite Balaji Hotel,  
Kadinchi Chowk, Kondwa,  
Pisoli Road, Pisoli,  
Pune – 411 060, Dist. Pune

.. Petitioner

VERSUS

- 1] The State of Maharashtra  
Through Police Station,  
Mukundwadi, Aurangabad
- 2] Ramchandra P. Gopikishan Darak,  
Age 61 years, Occu.: Business,  
R/o 'Yogayog', Plot No.8,  
Rokada Hanuman Colony,  
Aurangabad
- 3] Chandrakant Ganpatrao Nikam,  
Age 59 years, Occu.: Business,  
R/o N-5, In front of  
Deogiri Nagari Bank, Aurangabad
- 4] Navinchandra Pursushotama Jaju,  
Age 56 years, Occu.: Business,  
R/o Radashaswami Gaun Centre,  
Rangargalli, Aurangabad
- 5] Aamanullahkhan Mohamad  
Akbar Khan, Age 56 years,  
Occu : Business,  
R/o Madina Book Depot,  
Near Labaik Hotel,  
Roshan Gate, Aurangabad

.. Respondents

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Mr. B.S. Kudale, Advocate for the petitioner  
Mr. R.V. Dasalkar, A.P.P. for the respondent-State  
Respondent No.2 served - absent  
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**CORAM : M.T. JOSHI, J.**

**DATE : 03/02/2016**

**ORAL ORDER :**

Heard Mr. Kudale, learned counsel for the petitioner and the learned A.P.P.

2. Aggrieved by the rejection of the prayer of the present petitioner-complainant for taking action as per the provisions of section 156(3) of the Code of Criminal Procedure, the petitioner has preferred the Criminal Revision. The Criminal Revision was dismissed by the learned Additional Sessions Judge, Aurangabad vide order dated 06/08/2015. Hence, the present writ petition.

3. In nutshell, the grievance of the petitioner/complainant was that while he was 4 years old, his father had purchased 4 plots in his name from respondent no.2, as described in the complaint, however, when in June, 2012, he went to visit the plots, he found that present respondent nos.3 to 5 had already

constructed their houses. They claimed to have purchased the plots. Thus, the complainant/petitioner is cheated.

. In the circumstances, in the complaint, he sought direction for registration of the crime as per the provisions of section 156(3) of the Code of Criminal Procedure against those accused.

4. The learned Judicial Magistrate First Class has observed that there is insufficient record to show that the accused have made inter-se transaction about the same plots. The learned Judicial Magistrate First Class has further observed that it was not a fit case to issue directions for registration of the crime and, therefore, the complainant/petitioner was granted liberty to proceed with the matter as per the provisions of section 200 of the Code of Criminal Procedure.

5. The learned Additional Sessions Judge also arrived at the same conclusion vide the impugned order dated 06/08/2015 passed in Criminal Revision No. 193 of 2014.

6. Mr. Kudale, learned counsel for the petitioner also relies on the ratio of "**Panchabhai Popatbhai Butani and others Vs. State of Maharashtra and others**" 2010 (1) **Mh.L.J. 421**, wherein it is held that particular format of application under section 156(3) of the Code of Criminal Procedure is not required.

7. Upon hearing Mr. Kudale, in my view, the learned Judicial Magistrate First Class has exercised his discretion on the basis of the material before him. The said exercise cannot be called as perverse one. In that view of the matter, Criminal Writ Petition is hereby dismissed.

. The case to proceed with the learned Judicial Magistrate First Class as per the directions already issued by the learned J.M.F.C.

**[M.T. JOSHI]**  
**JUDGE**

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