

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1292 OF 2014

SHIVAJI LAXMAN CHAVRE

PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

RESPONDENTS

Mr.N.K.Tungar, Advocate for the petitioner.

Mr.S.G.Karlekar, APP for respondent No.1/State.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 07/06/2016

PER COURT :

1. The petitioner is aggrieved by the judgment and order 16/07/2014 passed by the learned Sessions Judge, Nanded in Cri.Rev.No.114/2013 and by the order dated 01/10/2013 passed by the learned 8th J.M.F.C. Nanded in Misc.Cri.Appl.No.379/2013.

2. Grievance of the petitioner is that despite the respondents having prepared a forged document with an intention of dispossessing the petitioner and creating a false title in their favour, the learned J.M.F.C. has failed to exercise its jurisdiction u/s 156(3) of the Cr.P.C. This error committed by the learned J.M.F.C. has been overlooked by the learned Sessions Judge, Nanded and hence both the impugned orders deserve to be quashed and set aside.

3. The petitioner submits that the land situated at village Sangvi (Bk.) bearing S.No.43 (Gat No.137) contains several plots. One plot admeasuring 60 x 60 feet was sold to Dilipsingh Harnamsingh Sandhu by registered sale deed dated 26/11/1981. The said Dilipsingh agreed to sale the plot to the petitioner and accordingly a registered sale deed dated 22/12/1989 was executed in favour of the petitioner. On the same day, the petitioner was put in possession of the said plot. He has erected a hut on the plot. Having found that the respondents were creating a road towards the North side of his plot, he attempted to destroy the road and the said persons manhandled him. A case was lodged by him and offences were registered against these persons under the provisions of the SC and ST (Prevention of Atrocities) Act and the IPC. Said case is pending trial.

4. In the meanwhile, respondent No.2 executed a bogus and fabricated sale deed dated 28/03/2012 in favour of respondent No.1. The plot of the petitioner was made a part of such a fabricated document and the petitioner is likely to be dispossessed on the basis of the forged document. Despite these facts, the learned J.M.F.C. has failed to exercise jurisdiction u/s 156(3).

5. I have considered the submissions of the learned Advocate for the petitioner.

6. Both the Courts below have, in my view, rightly concluded that the dispute in between the petitioner and the respondents with regard to the said plot is a civil dispute. The learned J.M.F.C. rightly concluded that the jurisdiction vested in him by Law u/s 156(3) of the Cr.P.C., need not be exercised in matters which are of civil nature.

7. The petitioner has already instituted RCS No.159/2013 for seeking declaration and perpetual injunction. By order dated 22/03/2013, as per the submissions of the learned Advocate, the Trial Court has directed the parties to maintain status-quo with regard to the suit property and the said order is still in force.

8. I therefore do not find any merit in this petition and the impugned orders are neither perverse nor erroneous so as to cause any interference.

9. This criminal writ petition is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)