

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 4253 OF 2015**

|                          |               |
|--------------------------|---------------|
| Mrs. Nargis Firoz Khan   | .. Petitioner |
| V/s.                     |               |
| The State of Maharashtra | .. Respondent |

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Mr. Sushil Upadhyay i/b. Mr. A.M. Sarogi, Advocate for the  
Petitioner.

Mr. J. P. Yagnik, APP for Respondent – State.

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**CORAM : NARESH H. PATIL AND  
PRAKASH D. NAIK, JJ.**

**DATED : SEPTEMBER 20, 2016.**

**P.C. :**

The Petitioner's grievance is that the police had locked his shop. The incharge or Senior Police Inspector was directed to hand over key of the disputed Hut No.21/1/32 to the petitioner under order dated 30<sup>th</sup> September, 2015 passed by the Additional Chief Metropolitan Magistrate 5<sup>th</sup> Court, Dadar, Mumbai. It is submitted that some third person had occupied the said shop inspite of the fact that police had locked the shop. Learned counsel for the petitioner submits that police be directed to hand over the vacant possession of the shop. Learned APP

submits that originally the premises was not a shop but there was a hut which was converted into a shop.

2            Learned APP submits that if third party has occupied said shop then petitioner may resort to alternate remedy. As regards lodging complaint or registering FIR against the third person who had occupied the shop, learned APP submits that in case petitioner approaches the Investigating Officer to record the statements, appropriate steps would be taken.

3            Without expressing any opinion on the issue raised in respect of possession of the shop, we observe that petitioner may resort alternate remedy as prescribed in law in case third party has occupied the shop which was possessed by the petitioner. In exercise of the writ jurisdiction of this Court, it would not be appropriate to decide questions of fact particularly the issue in relation to possession of the shop.

4            Writ Petition is disposed of accordingly.

**(PRAKASH D. NAIK, J.)**

**(NARESH H. PATIL, J.)**