

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

WRIT PETITION NO. 403 OF 2004

Shri Binoy Pramodkumar Shah
Adult, Occ: Business of
M/s. Sanskar Developers,
having office at Shop No.13,
Ganesh Bhuvan,
Narmada Nagar,
Cabin Cross Road,
Bhayander (E), Dist. Thane

..Petitioner

v/s.

1. Mr.Kalusingh Homersingh Rajput,
proprietor of M/s. Mewad &
Rajput Construction Co.,
Shop No.1, Padmavti Bhavan,
Cross Road No.5,
Bhayander (E), Dist Thane.

2. Shri Shobhnath Yadav,
having address at C/o.
National High School,
Vaishnav Sadan,
B.P.Road No.5, Bhayander (E),
District Thane.

..Respondents

Mr.Sandesh Patil for the Petitioner.
Mr.H.J.Dedia, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : DECEMBER 14, 2017.**

JUDGMENT.

1. The petitioner herein has challenged the order dated 3rd April, 2003 whereby the learned Addl. Sessions Judge, Thane, dismissed

the Criminal Revision Application No. 12 of 2003 and thereby confirmed the order dated 13th December, 2002 in Chapter Case No. 19 of 2002.

2. Heard the learned Counsel for the petitioner and the learned APP for the State. Perused the record. The petitioner herein had filed an application under Section 145 of Cr.P.C. and during pendency of the said application, the petitioner had filed an application under Section 146(1) of Cr.P.C. By Order dated 13th December, 2002 the learned Special Executive Magistrate, upon considering the police report observed that the disputed structures were already demolished and no urgent relief was warranted. The learned Special Executive Magistrate has further observed that he had no power to decide the issue of title or legality of possession and directed the petitioner herein to approach the Competent Court to establish his legal rights.

3. The said order was challenged before the learned Sessions Judge. The learned Sessions Judge has observed that the dispute was basically between two developers. The learned Sessions Judge has also taken note of the fact that there is no likelihood of breach of public peace. Considering the nature of dispute between the parties, the learned Sessions Judge held that it was not a case fit to invoke

provisions of Section 145 of Cr.P.C.

4. It is pertinent to note that the object of Section 145 Cr.P.C. is to promote speedy and summary remedy when the dispute over possession of immovable property is likely to cause breach of peace. It does not confer any powers on the Magistrate to decide the title or to delve into the legality of possession.

5. Having gone through the nature of the dispute and considering the scope and object of Section 145 Cr.P.C., in my considered view, the findings recorded in the impugned order do not warrant any interference. Hence, the petition is dismissed.

(ANUJA PRABHUDESSAI, J.)