

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 898 OF 2016

Dr. Lalchandra Badriprasad Tiwari	..Petitioner
Versus	
The State of Maharashtra and ors.	..Respondents

Mr. Asishi Mehta along with Ms. Shruti Khandelwal, advocate for the petitioner.

Mr. J. P. Yagnik, APP for the State.

Mr. Yadunath Chaudhari with Mr. Onkar Kulkarni, advocate for respondent No.10.

CORAM : RANJIT MORE,
DR. SHALINI PHANSALKAR-
JOSHI, J J.

DATE : 7th FEBRUARY, 2017.

P. C. :

Heard learned counsel appearing for the respective parties.

2. The petition is filed for the following reliefs :

A) *This Hon'ble Court may be pleased to issue a writ of mandamus or a writ, direction or order in the nature of the mandamus or any other appropriate writ, direction or order under Article 226 of the Constitution of India thereby directing Respondent Nos.1 to 3 to **initiate criminal prosecution** and register offence against Respondent Nos. 5 to 13 within two weeks from the date of this Hon'ble Court's Order;*

B) *This Hon'ble Court may be pleased to issue a writ of mandamus or a writ, direction or order in the nature of the mandamus or any other appropriate writ, direction or order under Article 226 of the Constitution of India thereby **constituting a Special Investigation Team (SIT)** for carrying out the investigation of the offence directed to be registered under prayer clause (A) under its supervision;*

C) *This Hon'ble Court may be pleased to issue a writ of certiorari or any writs, direction or order in the nature of the certiorari or any other appropriate writ, direction or order under Article 226 of the Constitution of India and thereby be pleased to direct any high ranking Officer of this Hon'ble Court or the Maharashtra Police to inspect/survey/search the suit premises and prepare a **comprehensive Report** of the actual position of the same and place the same before this Hon'ble Court within two weeks from the date of this Hon'ble Court's Order;*

The above reliefs are claimed on the grievance that the Kandivali Police Station has not taken any action on the petitioner's complaint dated 2nd February, 2016, a copy of which is annexed at Exhibit – I, page 88.

3. Mr. Yagnik, learned APP, on instructions, makes a statement that the allegations made in the said complaint are enquired

into and it was found that the dispute raised in the said complaint is sub judice before the City Civil Court at Dindoshi in LC Suit No.154 of 2011 and accordingly, NC complaint has been registered.

4. We also find that respondent No.10 has filed the said suit and has obtained interim injunction against the Society of which the petitioner is a member. The said society has also filed an application for vacating the said interim injunction. As the City Civil Court is seized of the matter, the Kandivali Police Station rightly registered the NC complaint. Be that as it may, if the petitioner has any grievance against the respondents, he can always approach the Magistrate by way of private complaint. However, we are not inclined to exercise the extraordinary jurisdiction conferred upon this Court under Article 226 of the Constitution of India. The petition stands dismissed.

(DR. SHALINI PHANSALKAR-JOSHI)

[RANJIT MORE, J.]