

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

CRIMINAL APPLICATION NO. 159 OF 2017

IN

WRIT PETITION NO. 975 OF 2017

Mr. Arif Ibrahim Pavte

...Applicant/Org.
Petitioner

versus

The State of Maharashtra

....Respondents

with

CRIMINAL APPLICATION NO. 176 OF 2017

in

CRIMINAL APPLICATION NO. 159 OF 2017

IN

WRIT PETITION NO. 975 OF 2017

Kamla Marya Bari

....Applicant

In the matter of

Mr. Arif Ibrahim Pavte

...Applicant/Org.
Petitioner

versus

The State of Maharashtra

....Respondents

Mr. M. S. Mohite i/b. Mr. M. R.Sharma, advocate for the applicant/
org.petitioner.

Mrs. Aruna S. Pai, APP for the State.

Mr. R. A. Thorat, senior advocate along with Mr. S. A. Sawant i/b. S. M.
Suryavanshi, advocate for the intervenor in criminal application No. 176
of 2017.

**CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATE : 11th APRIL, 2017.

P. C. :

Heard Mr. Mohite, learned counsel for the
applicant/petitioner, Mrs. Pai, learned APP and Mr. Thorat, learned
counsel for the intervenor.

2 Criminal Application No. 159 of 2017 is filed seeking direction to the respondent not to cause any obstruction to the petitioner in opening and occupying the subject premises. Criminal application No. 176 of 2017 is filed by the applicant for intervention in the above criminal application.

3 The petitioner had earlier filed writ petition No. 975 of 2017 for the following reliefs :

“a) that this Hon'ble Court be pleased to pass appropriate writ, order and direction directing the independent investigating agency to investigate the conduct on the part of the officers of Dindoshi Police Station in unofficially locking the premises and keep the keys in respect thereof and more particularly, the premises situated at Village Malad, Taluka Borivali, Mumbai Suburban District situated at Sharif Shivgan Compound/Chawl, Kanyapada, Gokuldharm Market, Gen.A.K.Vaidya Marg, Mulund Link Road, Goregaon (E), Mumbai 400 063 and subject to outcome of the same, necessary action be initiated against them.

b) that this Hon'ble Court be pleased to issue appropriate writ, order and direction directing the Respondents to forthwith hand over the keys in respect of the said premises being the premises situated at land bearing no.266(Part) and CTS No.699(part) of Village Malad, Taluka Borivali, Mumbai Suburban District situated at Sharif Compound/Chawl, Kanyapada, Gokuldharm Market, Gen.A.K.Vaidya Marg,

*Mulund Link Road, Goregaon (E), Mumbai 400 063
admeasuring 4200 sq.ft. to the Petitioner on such terms as
this Hon'ble Court may deem fit and proper."*

At the time of hearing of the aforesaid writ petition, a statement was made by learned APP, on instruction, that the police officer has not put lock on the subject premises. The statement was accepted and the aforesaid writ petition was disposed of.

4 The grievance of Mr. Mohite, learned counsel for the applicant/petitioner, is that that despite the aforesaid statement, the police are obstructing the petitioner in opening and occupying the subject premises.

5 Mrs. Pai, learned APP, on instructions of the officer concerned - API- Sachin Suryavanshi, Dindoshi Police Station, reiterates the earlier statement and stated that the police has nothing to do with the premises. She further stated that two police constables are posted at the subject premises to maintain law and order in view of the complaints and cross-complaints made by the respective parties.

6 Mr. Thorat, learned senior counsel for the intervenor, makes a statement that there is a civil dispute between the parties in respect of

the subject premises and his client- the intervenor has put lock on the premises. Mr. Thorat further submitted that his client is in possession of the subject premises.

7. Considering the statements made by Mrs. Pai, learned APP and Mr. Thorat, learned senior counsel for the intervenor, we are not inclined to entertain these applications as the dispute is of civil nature. The criminal applications are, accordingly, dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]