

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 982 OF 2013

- 1] Padmakar S/o Vinayak Bhatlawande(Deo)
Age : 62 Years, Occ. Service
- 2] Ratnakar S/o Vinayak Bhatlawande (Deo)
Age : 59 Years, Occ. Agriculturist
- 3] Ganesh S/o Sanjay Bhatlawande (Deo)
Age : 24 Years, Occ. Agriculturist

All R/o. Village Ashta Tq. Chakur
Dist. Latur

..PETITIONERS

VERSUS

- 1] The State of Maharashtra,
Through Secretary, Home Department
Mantralaya Mumbai
- 2] The Superintendent of Police,
Latur
- 3] Police Inspector of Chakur
Police Station.

..RESPONDENTS

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Advocate for Applicant : Mr. C.R. Deshpande
APP for Respondents: Mr. A. A. Jagatkar

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CORAM :T.V. NALWADE AND
SMT.VIBHA KANKANWADI,JJ.
DATE : 25-10- 2018.

JUDGMENT(Per T.V. NALWADE, J] :-

Rule. Rule made returnable forthwith. By consent heard both the sides for final disposal.

2] The proceeding is filed for relief of quashing of the notice issued by Police dated 15.10.2013 (Chakur Police Station) under Section 149 of the Code of Criminal Procedure.

Both the sides are heard.

3] The submissions made shows that there was some dispute with regard to the possession and enjoyment of the agricultural land and due to that dispute the matter was taken to the police on 15.10.2013. Notice was issued by the Police and direction was given to the applicant not to enter the land till the matter is entertained by the Magistrate under the provision of Code of Criminal Procedure. The submission made show that prior to that Writ Petition No. 2838 of 2011 (Vinayak Deo and others Vs. Bhalaji Bhosale and others) was filed in this Court and by the order dated 22.08.2012 Court had given decision that the possession of the petitioners was legal as the land was given by way of grant in lieu of services which the predecessor of the petitioners was to render in respect of village temple. The direction was also given to see that a scheme was prepared in respect of the temple and the grant and it was submitted to the office of the Charity Commissioner. Submissions made show that such scheme has been submitted. The copy of the order temporary injunction made by the learned Civil Judge, Junior Division, Chakkur in R.C.S. No. 88 of 2013 is also produced. This suit was filed against Balaji and others who had challenged the rights of the plaintiffs, the persons of family which has received the grant. Relief of

temporary injunction was granted by the Civil Court.

4] The aforesaid circumstances show that the possession of the petitioners was not disputed over the land which was given for maintenance of the temple. The provision of Section 149 of Code of Criminal Procedure shows that police have the power to see that some steps are taken to prevent the commission of cognizable offence but prior to that there was the order of this Court recognizing the rights of the petitioners and so the order in nature of injunction could not have been made by the Police. In the result this Court holds that relief needs to be granted. Hence the order.

ORDER

- I] Petition is allowed.
- II] Relief is granted in terms of prayer clause (B).
- III] The direction given by this Court already in the aforesaid Writ Petition (2738 of 2011) are to be complied with by the Petitioners.
- IV] The other application is allowed and disposed of.
Rule made absolute in those terms.

[SMT.VIBHA KANKANWADI]
JUDGE

[T.V. NALAWADE]
JUDGE

YSK/