

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.779 of 2015**

Javed Akhtar Mohd. Hussain Siddiqui and ors.Petitioners

versus

The State of Maharashtra and ors.Respondents

Mr. E. A. Sasi, advocate for the petitioners.

Mr. Sukanta Karmakar, AGP for the State.

Ms. Prabha U. Badadare, advocate for the respondent No.7.

**CORAM : RANJIT MORE &
SMT.SADHANA JADHAV, JJ.**

DATE : 16th APRIL, 2018.

P. C. :

Heard learned counsel and learned AGP for the respective parties.

2. The petition is filed for following reliefs:

(a) This Hon'ble Court may be pleased to issue Writ of Mandamus, Writ of Certiorari, or any such other appropriate writ, order or direction to the concerned Respondents to take such appropriate action as this Hon'ble Court may deem fit and proper against the Respondent No.7 to 9 so as to

ensure that the Respondent No.7 to 9, their agents, servants or any person acting on their behalf does not do and/or repeat any such act whereby preventing/obstructing the Petitioners from carrying on their trade, business or profession permitted under the law and/or from preventing the ingress and egress of vehicles to the Petitioners' factory situated at the address more particularly mentioned in paragraph-1 of the petition;

(b) This Hon'ble Court may be further pleased to issue appropriate writ of Mandamus, Certiorari or Writ, order or direction, or writ in the nature of order or direction thereby directing the respective Respondents to forthwith take action to remove and/or seize the vehicles bearing No.MAM-2399, Road Roller and No.MH-02-PA 6856 and Trolley and/or any such other vehicles, articles or things including the container from the road and/or at the entrance in front of/near the premises of the Petitioners factory as described in Para-1 of the Petition;

(c) Pending hearing and final disposal of this Petition, this Hon'ble Court may be pleased to issue appropriate writ of Mandamus, Certiorari or Writ, order or direction, or writ in the nature of order or direction thereby directing the respective Respondents to forthwith take action to remove and/or seize the Maruti 800 vehicle bearing No.MAM-2399, Road Roller and Trolley and/or any such other vehicles, articles or things including the container from the road/footpath and/or at the entrance in front of/near the premises of the Petitioners' factory as described in Para-1 of the Petition;

3. Having gone through the proceedings, we find that there is a dispute between the petitioners and respondent Nos.7 to 9 regarding the premises, on which, vehicles referred in the prayer clauses are parked. The petitioners, in this regard, have already approached the City Civil Court by filing S.C.Suit No.657 of 2012. The petitioners had also filed notice of motion No.953 of 2012 in the said suit for reliefs similar to those claimed in the present petition. The said notice of motion is also dismissed. The petitioners, in this regard, also approached the Police

Station under Section 154 of the Code of Criminal Procedure, 1973 (for short "the Cr.P.C.) as well as concerned magistrate under Section 156 of the Cr.P.C.. That apart, even the respondent Nos.7 to 9 have filed S.C.Suit No.1231 of 2011 in City Civil Court in respect of the subject matter of the present petition.

4. In the above facts, we are of the opinion that petition arises out of disputed question of facts, which cannot be gone into by this Court in exercise of writ jurisdiction conferred upon it under Article 226 of the Constitution of India. The writ petition is, accordingly, dismissed.

(SMT. SADHANA JADHAV, J.)

[RANJIT MORE, J.]