

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.87 OF 2019

(GANGADHAR VISHVESHWAR NAKADE...VS.. STATE OF MAH. THR. P.S.O. PS NANDANVAN,
NAGPUR & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Amit Khare, Advocate for Petitioner.
Shri A.M.Balpande, A.P.P. for Respondent.

CORAM : Z.A.HAQ AND VINAY JOSHI, JJ.
DATED : MARCH 22, 2019.

Heard.

According to the petitioner, he has lodged report with the respondent No.3-Deputy Commissioner of Police on 10th October 2018 against the persons whose names are mentioned in the report (Annexure-I, page 13 of the paper book). The grievance of the petitioner is that action is not taken on his report and therefore, he is constrained to approach this Court seeking Writ of Mandamus, directing the respondent No.3 to investigate the complaint personally or to appoint any person not below the rank of Deputy Commissioner of Police to investigate the complaint.

With the assistance of the learned Advocate appearing for the petitioner and the learned A.P.P. we have gone through the report and have also examined the documents placed on record of the petition. On query, the learned Advocate for the petitioner has submitted that the report should have been lodged with the respondent No.1-Police Station, Nandanvan, Nagpur. It being so, the investigation has to be by the Police Station Officer of Police

Station, Nandanvan, Nagpur. The prayer made by the petitioner in this petition that directions be given to the respondent No.3-Deputy Commissioner of Police to investigate the matter cannot be considered. There is no explanation for seeking such directions.

If the investigation is to be conducted by the Police Station officer of Police Station, Nandanvan, Nagpur and it is not done then as per Section 154(3) of the Code of Criminal Procedure the petitioner may approach the superior officer, and make complaint of the concerned Police Officer. It is not the case of the petitioner that he has apprised the superior officer/ officers that the Police Station Officer, Nandanvan, Nagpur has not taken any action on his report.

In the report, alleged to have been given by the petitioner on 10th October 2018, the date on which the persons against whom the report is lodged have taken forcible possession of the property in question is not given. In the report it is stated that those encroachers have undertaken construction illegally on the property in question. But, again when the construction is undertaken, is not mentioned.

In the facts of the case, we are not inclined to exercise the extraordinary jurisdiction and issue Writ of Mandamus, as sought by the petitioner. It would be open for the petitioner to avail appropriate remedy as per law.

The writ petition is **disposed** accordingly.

(VINAY JOSHI, J.)

(Z.A.HAQ, J.)