

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

CRIMINAL WRIT PETITION NO. 92 OF 2021

Kantabai Arvind Mapari,

..VS..

State of Maharashtra, through the Police Inspector, Lonar Police Station, Lonar, Dist.
Buldhana and Anr.,

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

Court's or Judge's orders

Ms Sujata J. Waldekar, Advocate h/f Shri A. D. Raut, Advocate for
the petitioner.

Shri N. R. Patil, A.P.P. for the respondent No.1.

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATED : 09.03.2021

Heard Ms Sujata J. Waldekar, learned Advocate h/f Shri A. D. Raut, learned Advocate for the petitioner and Shri N. R. Patil, learned A.P.P. for the respondent No.1.

2. Initially when this matter was called out, Ms. Sujata Waldekar, learned Advocate h/f. Shri A. D. Raut, learned Advocate for the petitioner made a request for passing over of the matter. The request was granted. The matter was passed over and several others matters were heard, then, this petition was called out second time. Again Ms Sujata Waldekar, learned Advocate for the petitioner makes a request for passing over the matter.

3. We are of the opinion that such request is

being made for the reason that the petitioner may not have any answer to the question posed by this Court on the last occasion on account of non maintainability of this petition. The second request for passing over of the matter is, therefore, rejected.

4. Ms Sujata J. Waldekar, learned Advocate h/f Shri A. D. Raut, learned Advocate for the petitioner, who also represents the petitioner submits that she has nothing more to say than what has been stated by the petitioner in the petition, which we have already considered while passing the earlier order on 05.03.2021.

5. Shri N. R. Patil, learned A.P.P. for respondent No.1 submits that this petition is not maintainable as the accused has not come forward with a case for releasing the property and that, if the prayer regarding release of the property is granted, it may virtually amount to deciding the civil dispute between landlord and tenant, on the backdrop of this petitioner, presently not being declared by civil Court to be landlord of the accused in this case, which could be inferred from the averments made in this petition.

6. We find substance in the argument of the learned A.P.P. It is not the case of the petitioner that she is the declared landlord of the accused in this case. The case of the petitioner is that she has become owner of the property allegedly sealed by the Police on the basis of registered Will-deed No.3/1040/2016, dated

21.04.2016. It is also an admitted fact that the accused in this case, who has alleged to be tenant in the property in question has not come forward for release of the property alleged to be seized by the Investigating Officer.

7. At this juncture, learned A.P.P. submits that the property in possession of the tenant who is the accused in this case, as a matter of fact, has not been sealed by the Investigating Officer and what have been sealed are only some equipments and the materials which have been taken away from the subject property. If the premises in question have not been sealed by the Investigating Officer, we have to say that the petitioner is trying to settle her civil dispute through this criminal Writ Petition. In addition to this dimension, we find that the petitioner has also not come out with any case of termination of tenancy.

8. For the reasons stated above, this petition is not maintainable and stands dismissed summarily.

JUDGE

JUDGE