

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

909 CRIMINAL WRIT PETITION NO.265 OF 2023

**JANARDAN PANDIT MOHITE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Petitioner : Mr. Madake Datta A.
APP for Respondent/s – State : Mr. S. R. Yadav-Lonikar
...

CORAM : KISHORE C. SANT, J.

DATE : 31.03.2023

PER COURT :

01. Heard learned Advocate for the petitioner.
02. Petitioner is owner of vehicle tractor having Registration No. MH-19-AP-5022 Chasis No. WKCK40606030984 which is seized by the police in connection with F.I.R. No.10/2022 registered with Dharangaon Police Station.
03. The petitioner filed an application bearing Criminal Misc. Application No.22/2022. The learned Judicial Magistrate First Class, Dharangaon by order dated 22.02.2022 was pleased to allow the application. The petitioner is aggrieved by clause No. 2 of the order which reads as below :-

“2. The applicant to deposit Rs. 1,00,000/- to the Revenue Authority Dharangaon for the release of Mahindra and Mahindra Swaraj 744 tractor bearing Reg. no. MH19-AP-5022, Chasis no. WKCK40606030984 within 15 days from the date of this order. This deposit would be without prejudice to the rights and contentions of either parties and shall not be taken as acceptance of guilt in crime. The copy of such deposit shall be submitted before this court for release the vehicle.”

04. He submits that the revenue authorities have independent powers in respect of recovery and for that purpose the Criminal Court need not pass such an order.

05. The learned Advocate relied upon the order passed by Principal Seat of this Court at Mumbai in Criminal Writ Petition No.3397/2021 and order passed by this Court in Criminal Application No. 190/2021 wherein the Court has ordered that such conditions are not proper and the revenue authorities can exercise their powers independent of the orders passed by the Criminal Courts.

06. The learned APP raised the preliminary objection about the maintainability of the writ petition submitting that the revision would lie in the Sessions Court.

07. The learned Advocate for the petitioner, however, submits that this Court can entertain the petition directly as there is no absolute bar of the remedy of the revision.

08. Considering the nature of order, this Court finds that the writ petition can be disposed off. After considering the order in the light of judgments and orders relied upon by the petitioner, this Court finds that this petition also needs to be allowed. Paragraph No. 3 which is wrongly typed as paragraph 2 as referred above shall stand deleted from order dated 22.02.2022 passed by the learned Judicial Magistrate First Class, Dharangaon in Criminal Misc. Application No.22/2022.

09. The Criminal Writ Petition is, thus, disposed off.

(KISHORE C. SANT, J.)

shp/-