

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

946 CRIMINAL WRIT PETITION NO.301 OF 2023

**HANUMANT BHAURAO DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr. Jadhavar Santosh Sampatrao
APP for Respondent/State : Mr. S.D. Ghayal

**CORAM : MANGESH S. PATIL &
ABHAY S. WAGHWASE, JJ.**

DATE : 28.03.2023

PER COURT :

Heard the learned advocate for the petitioner as also the learned
A.P.P

2. The petitioner alleges that he had executed a sale-deed as a security for repayment of the loan which he had borrowed still he himself continued to be in possession of the land. However, the purchaser sold the land to the respondent No. 3 without delivery of possession. The respondent No. 3 got the sale-deed executed in the name of his brother Shivraj and mother Rukmini. The respondent No. 3 is a police constable and has been trying to dispossess the petitioner by resorting to gross misuse of his powers. In spite of petitioner's representation to the respondent No. 2 who is the Superintendent of Police and a superior officer of the respondent No. 3, the respondent No. 2 has not been taking any steps to prohibit the illegal actions of the respondent No. 3. Hence the petitioner prays that the respondent No. 2 be directed to consider his complaints/representations and initiates appropriate action against the respondent No. 3.

3. The learned advocate for the petitioner would submit that there is no

alternative for the petitioner but to approach this Court since the respondent No. 3 being a police constable has been able to shield his illegal activities. The prayer of the petitioner is innocuous. The respondent No. 2 being a superior officer of the respondent No. 3 should consider the petitioner's plight and take appropriate action.

4. The learned A.P.P opposes the application.

5. We have carefully considered the rival submissions and perused the papers.

6. As can be noticed, the petitioner himself has annexed a copy of the proceeding initiated by him along with his brother and mother against the alleged money lenders under the provisions of Section 18 of the Maharashtra Money Lending (Regulation) Act, 2014 which was filed on 11.01.2019. Independently, claiming that the land in question is an ancestral land, one of the heirs from the common ancestor of the petitioner has also filed Special Civil Suit No. 35/2021 arraying the alleged money lenders and even the respondent No. 3 and his wife as defendants.

7. When admittedly, on the petitioner's own showing, the dispute as regards the title to the land and incidentally even its possession is clearly *sub judice* before two fora which are competent to decide the issue. Assuming for the sake of arguments that the respondent No. 3 is misusing his post of being a police constable, the petitioner has his remedies cut out in these two civil proceedings. Merely because the respondent No. 3 is hellbent to forcibly evict the petitioner, only on this ground his superior officer-respondent No. 2 cannot be made to consider the petitioner's request. It is not the petitioner's case that there is any criminality involved and even if there is some criminality, he will have to resort to the appropriate provisions of the Code of Criminal Procedure of lodging the F.I.R. or approaching the criminal court. The petitioner apparently is seeking to settle the civil dispute circuitously.

8. In view of such state of affairs, we are not inclined to issue any writ of mandamus as is being sought.

9. The Criminal Writ Petition is dismissed.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)

mkd/-