

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

**40 CRIMINAL WRIT PETITION NO.719 OF 2022**

**JYOTIRAM HANMANTRAO PATIL  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. Tukaram M. Venjane, Advocate for the petitioner  
Mr. Pradip L. Andhale, Advocate for the respondent No. 3 and 4  
Mr. Dhanraj P. Munde, Advocate for respondent No.2  
Mrs. D. S. Jape, APP for the respondents/State

**CORAM : KISHORE C. SANT, J.**

**DATE : 06<sup>th</sup> MARCH, 2023**

**P. C.**

1. Heard the learned advocates for the parties.
2. This petition is by the original applicant. Learned SDO, Nilanga by his judgment and order dated 03-08-2021 was pleased to hold that respondents are in possession of the suit land and vacated interim order of restricting the respondents from interfering with the possession. Against the said order a revision was filed bearing Criminal Revision Application No. 5/2021. Learned Additional Sessions Judge, Nilanga by

judgment and order dated 06-04-2022 observed that already parties are litigating before the civil court and observed that rights of the parties are subject to the finding of the civil court and dismissed the revision. In fact when the order was passed the petitioner was not given proper opportunity of hearing. It is clear in the order that the petitioner was out of station and was not served. The petitioner, therefore, filed a revision before the revisional court. Learned SDO had no authority to make observations and to pass an order in respect of the respondents are in possession of the land. From looking to the facts on record it is clear that the petitioner had filed a RCS No. 197/2020 in the court of CJSD, Nilanga for declaration that he has become owner by adverse possession of the suit property & seeking injunction that respondents be restrained from interfering with the possession and further declaration that a sale deed executed by respondent by defendant No.1 therein infavour of the defendant No.4 therein. It is accepted that civil proceeding is in respect of the same suit property.

3. Learned advocate for the respondent vehemently opposed the petition. He submits that infact suit was filed earlier to the filing of 145 proceeding. However, Exhh.5 application is not yet argued by the parties because of pendency of this proceeding under section 145. He submits that ultimately it is a civil court whose finding will be binding upon the authorities. Learned SDO and learned Sessions Court has rightly passed the order by considering all the facts. The learned advocate for the respondent prays for dismissal of the petition.

4. After hearing the parties, this court finds that the learned Sessions Court has rightly made observations while dismissing the revision application. Only concern of the petitioner seems to be that observations made by the learned SDO, may come in a way while deciding application Exh.5 in the Regular Civil Suit. It is well settled that the finding of the criminal court are not binding upon the civil court. Civil court is only competent to decide the rights of the parties like title over the property etc. This court, therefore, finds that no purpose

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would be served by entertaining the petition. Needless to say that civil court shall not be influenced by the observations made by both the lower authorities and the orders which are impugned in petition. With this, criminal writ petition stands disposed off.

**[KISHORE C. SANT, J.]**

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