

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

CRIMINAL WRIT PETITION NO.1282 OF 2022

**BABASAHEB BHAGWANRAO BAGLANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Mr. H.V. Tungar, Advocate for the Petitioner.

Mr. P.G. Borade, APP, for the Respondent – State.

Mr. S.S. Kazi, Advocate for the Respondent Nos. 5 to 7.

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**CORAM : SMT. ANUJA PRABHUDESSAI &
R.M. JOSHI, JJ**

DATE : JANUARY 18, 2023

PER COURT :

1. With consent, heard finally at the stage of admission.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioner has sought to challenge notice dated 05.09.2020 issued by the PSI, Shivajinagar Police Station, Beed and the notice dated 29.08.2022 issued by the PSI, Economic Offences Branch, Beed.

3. It is not in dispute that there is civil dispute between the Petitioner and Respondent Nos. 5 to 7. It is stated that civil suit filed by the Respondent Nos. 5 to 7 has been decreed, the first appeal has been

dismissed and second appeal is pending before this Court. The Respondent Nos. 5 to 7 have filed Execution Proceedings bearing R.D. No. 20/2021 before the learned CJSD, Beed. In the said execution proceedings, the Respondent Nos. 5 to 7 filed application (Exh.14) seeking police protection to erect the wire fencing. The said application was rejected by the executing Court by order dated 03.01.2022. Being aggrieved by the said order, the Respondent Nos. 5 to 7 filed Writ Petition No. 4399/2022, which was disposed of by order dated 24.11.2022. This Court did not interfere with the order dated 03.01.2022 and directed the executing court to dispose of the execution proceedings as expeditiously as possible on its own merits.

4. Pertinently, after dismissal of the application at Exh. 14 and despite pendency of the execution proceedings, the Respondent No. 2 approached the police authority to remove the Petitioner from the subject plot with police aid. Despite there being no order of the Executing Court or any other civil court, the PSI, Shivajinagar police station promptly responded to such request by issuing notice dated 05.09.2022 to

the petitioner to show cause as to why police protection should not be granted for taking possession of the plot. Prior thereto, by notice dated 29.08.2022, PSI, Economic Offences Wing, Beed, had called upon the Petitioner to appear along with the relevant paper. The said notice was issued pursuant to the application by the Respondent Nos. 5 to 7 alleging contempt of Court.

5. It is not in dispute that no FIR is registered against the Petitioner either before Shivajinagar Police Station, Beed or before the Economic Offences Branch, Beed. There is nothing on record to indicate that the police had interfered in Court matters due to law and order situation. Under these circumstance, we fail to understand how the PSI, Shivajinagar Police Station, Beed or Economic Offences Branch, Beed could have issued notices to the Petitioner, particularly when the application for police protection was dismissed by the executing court and this Court has refused to interfere with the said order.

6. It is further seen that the concerned PSI have directed the Petitioner to produce the documents in

respect of property which is the subject matter of the civil proceedings before the Civil Court and the second appeal arising from the said civil proceedings is pending before this Court. Suffice it to say that adjudication of civil disputes is within the domain of the civil Court and the police has no jurisdiction to interfere in civil dispute. Such high handed acts of the police in the nature of issuing notices calling for property documents etc. for police protection amounts to usurpation of judicial functions of adjudication. Furthermore, such interference in civil matters which are subjudice is nothing short of interference with administration of justice. The act of the police authority meddling with matters which are within the province of the civil court is wholly arbitrary and illegal and cannot be sustained.

7. Hence, the Petition is allowed in terms of prayer clause 'B'.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)