

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1041 OF 2021  
WITH  
CRIMINAL APPEAL NO. 235 OF 2022

SNEHA  
NITIN  
CHAVAN

Digitally signed  
by SNEHA NITIN  
CHAVAN  
Date: 2023.03.24  
14:47:34 +0530

Balasaheb Geneba Kingare

..Appellant

V/s.

State of Maharashtra and Ors.

..Respondents

----

Mr. Balasaheb Geneba Kingare, Appellant party in person.

Mr. A.R. Kapadnis, APP for the Respondents.

Mr. Nitesh Bhutekar a/w Aniket Nargare for Respondent No.3.

----

CORAM : SUNIL B. SHUKRE, AND  
ABHAY S. WAGHWASE, JJ.

DATE : 21<sup>st</sup> MARCH 2023

P.C.

1. We have heard these matters for some time. We are of the *prima facie* view that the relief claimed in these Appeals, which is on the basis of the application at Exh.9 made by the Appellant before the MPID Court, is something which can be considered and appropriately decided only by a Civil Court and not by any Criminal Court. This view is also taken by the MPID Court while passing the impugned order dated 13.11.2021.

2. The Appellant has claimed that the boundaries of disputed property have already been fixed but in the process of attachment,

those boundaries have not been followed and the result is of attachment of the property in breach of the fixed boundaries, and therefore, it is necessary for the MPID Court to issue appropriate directions for restoration of the boundaries already fixed.

3. The prayer so made in the application at Exh.9 basically being about restoration of the boundaries already fixed, the MPID Court has taken a view that such an application could not be entertained by the Special Court constituted under the MPID Act, meaning thereby such a relief would have to be sought by the Appellant by approaching the Civil Court of competent jurisdiction.

4. After hearing the Appellant, it appears to us that his grievance is about not taking into consideration the boundaries already fixed in respect of the respective properties but is about wrong attachment of some properties resulting from failure to recognise the boundaries. It also appears to us that the Appellant has made some incomplete averments in the application of Exh.9 and has made even improper prayer in that application. It further appears to us that it is the case of the Appellant that if the boundaries already fixed in the matter, had been considered while attaching the properties, or portion thereof, his property would not have come under the shadow of the attachment. But, such

specific averment and specific prayer have not been made by the Appellant while filing the application at Exh.9.

5. We are of the opinion that in the interest of justice, the Appellant needs to be granted further opportunity to make proper application with proper averments and pleadings and prayer clauses to the Special Court constituted under the MPID Act which we do so. We direct that if such an application is made, same shall be considered and decided by MPID Court in accordance with law and at the earliest, preferably within eight weeks from the filing of a fresh application, after giving a fresh opportunity of hearing to all the interested parties. This shall be done by the Trial Court without being influenced by the observations made hereinabove and also the view already taken by Trial Court in its order dated 13.11.2021. The Appellant is accordingly relegated to the Special Court constituted under the MPID Act for redressal of his grievance.

6. Appeals are disposed of. All contentions of both the parties are kept open. No order as to costs.

**(ABHAY S. WAGHWASE, J.)**

**(SUNIL B. SHUKRE, J.)**