

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1828 OF 2023

Balasaheb Genaba Kingare	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

Petitioner – Balasaheb Genaba Kingare in person, present.

Mrs. P.P.Shinde, A.P.P for the Respondent-State.

Mr. Vishwanath Patil for the Respondent No.2-PMC.

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**
DATE : 7TH JUNE, 2023

P.C. :

1. Heard the petitioner who appears in person.
2. By this petition, the petitioner has sought the following substantive reliefs;

(A) The Hon'ble Court be please to call record and proceedings with Respondents and after going through the

same and satisfy about the legality direction or order, passed in letter dated 18/05/2018 be confirmed for providing paid police protection for restoring pace demarcation to Petitioner's property as per Map dated 25/04/2008 on North & West side and as per Map prepared by PMC for Water line dated 18/02/2020, on East side.

(B) The Hon'ble High Court be pleased to appoint independent court commissioner to visit the site and file necessary report to this Hon'ble High Court alongwith Respondents."

2. It is not in dispute that the petitioner had filed a similar petition seeking the same reliefs before the Civil Appellate Jurisdiction i.e. Writ Petition No.4064 of 2023. This Court, vide order dated 12th April, 2023 disposed of that petition by passing the following order;

“ We have heard the petitioner in -person.

2. The petitioner has prayed for the following reliefs;

“A) The Hon'ble High Court be please to call record and proceedings with Respondents and after going through the same and satisfy about the legality direction or order, passed in letter dated 18/05/2018 be confirmed for providing paid police protection for restoring pace demarcation to Petitioner's property as per Map dated 25/04/2008 on North & West side and as per Map Prepared by PMC for Water line dated 18/02/2020, on East side alongwith PMC officials.

B) The Respondent No.3 may please be directed to comply the order of B.D.O. dated 03/05/2017 and PMC dated 22/09/2020.

C) Any other relief as deemed fit and proper may please be granted in favor of Petitioners herein.”

3. The case of the petitioner is that the boundary marks pertaining to his land are disturbed and they are required to be accordingly restored. He states that there was already a demarcation undertaken by the appropriate authority. If that be the case, it is not possible for us in exercise of writ jurisdiction under Article 226 of the Constitution of India to adjudicate any such dispute, which the petitioner may have in regard to his boundary marks being disturbed. All these are disputed questions of fact for which the petitioner would be required to pursue appropriate remedy as may be permissible in law.

4. We accordingly disposed of the petition. Permitting the petitioner to take recourse to the appropriate remedy as may be available in law. All contentions of the parties in that regard are expressly kept open.

5. Petition is disposed of in the above terms. No costs.”

3. Identical reliefs as sought in the Civil Petition have been sought in the present petition. We cannot consider/grant the reliefs as prayed for in this petition, in exercise of our writ jurisdiction under Article 226 of the Constitution of India. The petition raises disputed questions of facts which cannot be gone into. It is open for the petitioner to adopt such remedies, as available and permissible in law.

4. Considering the aforesaid, we are not inclined to entertain the aforesaid petition. The petition is accordingly dismissed.

5. Needless to again reiterate, that the petitioner is at liberty to adopt such remedy as maintainable in law. All contentions of all parties on merits, are kept open.

6. The petition stands disposed of on the aforesaid terms.

7. All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.