



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

35 CRIMINAL WRIT PETITION NO. 1821 OF 2018

TARABAI W/O. HARISHCHANDRA SHERKAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Ms. Kazi Fatema S.

APP for Respondent/State : Mr. C. V. Bhadane

...

CORAM : SUSHIL M. GHODESWAR J.,

DATE : 15.12.2025

PER COURT :

1. Heard Ms. Kazi Fatema S., learned counsel for the petitioner .
2. According to her, initially she had approached the learned J.M.F.C., Phulambri by filing application under Section 156(3) of the Code Criminal Procedure. The learned J.M.F.C. vide order dated 07.02.2017 rejected the said application on the ground that dispute between the parties is of purely civil nature and moreover the complainant had also filed a suit questioning the sale-deed bearing No. 1931/2014 before the Civil Judge, Senior Division, Aurangabad while considering the same, the learned J.M.F.C. dismissed Criminal M.A.No. 35/2017. The said order was challenged before the learned Additional Sessions Judge, Aurangabad in Criminal Revision No. 60/2017. The

learned Sessions Court after agreeing with the order of learned J.M.F.C.Phulambri dismissed the revision. Hence the petitioner has filed this petition.

3. According to Ms. Fatema Kazi, learned counsel for the petitioner, the orders passed by both the subordinate courts are incorrect since they have not considered criminal intent of the accused persons, therefore, both orders be quashed and set aside and the police authorities be directed to register the crime against the accused persons and file the report under Section 156(3) of Cr.P.C.

4. After going through both the orders passed by the learned subordinate courts, it is clear that dispute between the parties is of purely civil nature. Moreover, the petitioner complainant has also approached the Civil Court by filing civil suit against the respondent. However, now learned counsel for the petitioner submits that the said civil suit is also dismissed. Be that as it may be, the petitioner still is having a remedy to file appeal against the decision of the said suit. Hence, the dispute between the parties is of purely civil nature and petitioner is having remedy of filing appropriate proceedings before the Civil Court. Hence, the instant petition is dismissed.

(SUSHIL M. GHODESWAR)
JUDGE