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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.4719 OF 2024
IN
CRIMINAL REVISION APPLICATION NO.108 OF 2023

Rajesh Virendra Tiwari & Ors. ... Applicants
In the matter between
Romell Housing LLP & Ors. ... Applicants
V/s.
Sameer Salim Shaikh & Ors. ... Respondents

Mr. Dinesh Purandare, Senior Advocate with Ms. Vinodini Srinivasan, Mr. Parag Shah, and Ms. Shraddha Prajapati for the interveners.

Mr. Girish Godbole, Senior Advocate with Mr. Drupad Patil i/by Mr. Dheeraj D. Patil for the applicant in Revision.

Mr. Chaitanya Pendse with Mr. Atharva S. Jagtap for respondent No.1.

Mrs. Rajashree V. Newton, for respondent No.2-State.

Mr. Rohan Sawant i/by Mr. Laxman Jain for respondent Nos.3 and 4.

Mr. N.C. Pawar, Court Receiver, is present.

CORAM : AMIT BORKAR, J.

RESERVED ON : SEPTEMBER 11, 2025

PRONOUNCED ON : SEPTEMBER 16, 2025

PC.:

1. The present interim application is filed by third parties seeking a direction to add them as respondents in the pending criminal revision application.

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2. The applicants claim that on 6 November 2013, they purchased land admeasuring 4,000 sq. meters situated at Village Dahisar, Taluka Borivali, Mumbai Suburban District bearing Survey Nos. 99/3/A/1, 100/2/A/1 and 100/3/1, corresponding to CTS Nos. 3071A, 3072A and 3073A. They contend that this land aligns with part of the property which is the subject-matter of the present revision. They point out that by order dated 14 February 2018, this Court had appointed the Court Receiver in respect of the property in dispute. On 13 November 2019, the Court Receiver was directed to take possession and accordingly sealed the property which forms part of the present revision. Thereafter, on 3 December 2019, the City Survey Officer completed the demarcation exercise and on 5 December 2019, this Court recorded the statement of the City Survey Officer to that effect. On the same day, permission was granted to the applicants to raise fencing and to appoint security guards for protection of their purchased land.

3. The grievance of the applicants is that during the demarcation exercise, the City Survey Officer wrongly included their land in the larger property claimed by the present applicants in revision. They allege that the action of the City Survey Officer and the Court Receiver resulted in curtailment of their rights to use and enjoy their own land.

4. The applicants state that they had earlier filed Interim Application No.1712 of 2019 in the criminal writ petition seeking intervention. That criminal writ petition was heard and disposed of by this Court on 23 October 2023. While disposing of the writ petition, this Court observed that it would be appropriate for the

parties to establish their rights before the competent forum. It was also clarified that the Court Receiver would remain in possession of the disputed property until such adjudication.

5. Dissatisfied, the applicants challenged the order dated 23 October 2023 by filing a Special Leave Petition before the Supreme Court. By order dated 27 February 2024, the Supreme Court, after taking into consideration the report of the Court Receiver, observed that the Receiver's action does not in any manner affect the ownership rights of the applicants in their property. The Supreme Court disposed of the SLP granting liberty to the applicants to file a review petition before this Court or to take such other recourse as may be available in law. It is pursuant to this liberty that the present interim application has been filed.

6. However, it needs to be borne in mind that the present revision application has its origin only in an order passed by the learned Metropolitan Magistrate under Section 145 of the Code of Criminal Procedure, 1973. As has already been observed in the main judgment, the limited scope of Section 145 proceedings is to ascertain who was in possession of the property on the relevant date. The Magistrate does not and cannot decide ownership or title. Questions of ownership, boundary demarcation, or validity of conveyances are matters exclusively falling within the jurisdiction of the civil court.

7. The applicants, who now seek intervention, were not parties before the Magistrate in the Section 145 proceedings. They did not challenge the order of the Magistrate by way of revision. The

revision application is confined only to the dispute between the original parties. At this stage, permitting fresh intervention would enlarge the scope of the revision far beyond its legal limits and would convert it into a dispute on title, which is impermissible in law.

8. It is also material to note that the grievance put forth by the applicants essentially relates to alleged wrongful inclusion of their land in the demarcation exercise by the City Survey Officer and subsequent action of the Court Receiver. Such grievance touches directly upon ownership rights and boundary disputes. These issues can only be resolved by the civil forum upon evidence and not in summary proceedings under Section 145 Cr.P.C. The law is well settled that Section 145 proceedings cannot be used as a substitute for a civil suit.

9. In these circumstances, I am of the considered opinion that the applicants are neither necessary nor proper parties to the present revision. Their addition will not aid the adjudication of the limited issue of possession, which lies at the heart of these proceedings. Their rights, if any, in respect of ownership or boundaries remain unaffected and open to be agitated before the competent civil forum in accordance with law.

10. Accordingly, the interim application is devoid of merit and stands rejected.

(AMIT BORKAR, J.)