



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1717 OF 2024

Dilip Lalchand Porwal
Adult, Indian Inhabitant,
having office at Shop no.9,
Bhairav Shrushti, Near
Maxus Mall, Opp. Dominos,
150 Feet Road, Bhayander
(west), Thane-401 101.

... Petitioner

Versus

1. State of Maharashtra
Coby to be served on Govt.
Pleader Original Side, High
Court, Bombay
2. The Maharashtra State
Human Right Commission
9, Hajarimal Somani Marg,
Opp. Chhatrapati Shivaji
Maharaj Terminus,
Mumbai – 400 001
3. Umesh D. Thakkar
Adult, Indian Inhabitant,
residing at B-202/203 Hare
Krishna Apts, Opp. Thane
Janta Sahakari Bank, P. M
Road, Vile Parle (E),
Mumbai
4. Commissioner of Police
Mira-Bhayander Vasai Virar
Police Commissionrate,
Mira Road

5. Municipal Commissioner
Mira-Bhayander Municipal
Corporation, Bhayander
Indira Gandhi Bhavan,
Second, Chhatrapati Shivaji
Maharaj Marg, Bhayandar
(W) 401101

.... Respondents

Adv. Ajay Basutkar a/w Adv. Shruti Bedekar, Adv. Shikha Shah, for the Petitioner.

Mr. Himanshu Takke, AGP, for the Respondent-State.

Adv. Vishal Kanade i/b. Adv. Rahul Shirgavkar, for Respondent No.2.

Adv. Ram U. Singh a/w Adv. Shanbaugh, Adv. Annkur Jain, Adv. Kajal Soni, for Respondent No.3.

Adv. Sagar Patil, for Respondent No.5.

CORAM : M. S. KARNIK &
GAUTAM A. ANKHAD, JJ.

DATE : 20th FEBRUARY, 2026

ORAL JUDGMENT (PER M. S. KARNIK, J.) :

1. Heard learned counsel for the parties.
2. On an oral request made, the learned counsel for the petitioner is permitted to delete the respondent No.2 - The Maharashtra State Human Rights Commission from the array of the respondents. Amendment to be carried out forthwith.
3. The challenge in this Petition is to the order dated 31st May 2023 passed by the Maharashtra State Human Rights

Commission ('Commission', for short). The Commission in paragraph 11 has issued the following directions :-

“11. Accordingly for the reasons discussed above the present complaint stands closed and disposed off with a direction that Commissioner of Police, Mira Bhayandar Vasai Virar Police Commissionerate and Municipal Commissioner, Mira Bhayandar Municipal Corporation do initiate steps for necessary compliance of the directions passed in para 9 & 10 supra above, by following the mandate provided u/s. 18(e) of the Act of 1993 r/w. Reg. 22 to 24 of the Maharashtra State Human Rights Commission (Procedure) Regulations, 2011. Necessary compliance report be submitted within two months to the office of the Registrar, Legal Wing attached with this Commission.”

4. Learned counsel for the respondent No.3-complainant submitted that the Petition has been filed prematurely. Relying on the decision of the Hon'ble Supreme Court in **St. Anthony High School, through its Manager vs. Uma Umakant Chodankar and Others¹**, learned counsel submitted that unless the measures under Section 18 of the Protection of Human Rights Act, 1993 ('the said Act', for short) are taken and only after a decision is taken affecting the rights of any party, the party aggrieved by such decision may pursue his/her/its legal remedy in accordance with law. Learned counsel relied upon paragraphs 4, 5 and 6 of *St. Anthony High School* (supra) in support of his contentions which read thus :-

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“4. Provisions contained in Section 18 of the Act require the Government to take a decision on the recommendations and to forward its comments on the report including the action taken or proposed to be taken thereon to the Commission. Thereafter, the Commission is statutorily mandated to publish its entire inquiry report together with the comments of the Government as well action proposed to be taken or taken by the Government on the recommendations of the Commission.

5. We are of the considered opinion that unless the aforesaid measures are taken, no cause of action can be said to have accrued in favour of the petitioner to challenge the recommendations of the Commission contained in its report dated 15.9.2014. The cause of action, if at all, could arise if the Government were to accept the report as well the recommendations of the Commission and the petitioner has to implement such recommendations.

6. In such view of the matter, the Rule stands discharged with a direction to the State Government to apply its mind to the report of the Commission as well as the recommendations contained therein and to take appropriate action in terms of Section 18 of the Act, within a period of a month from date of service of a copy of this order. Once any decision is taken affecting the rights of any party, the party aggrieved by such decision may pursue his/her/its legal remedy in accordance with law. We keep all the contentions open.”

5. Learned counsel for the respondent No.3 also relied upon the decision of the Hon'ble Supreme Court in **State of U.P. and Others vs. N.H.R.C. and Others**². Their Lordships in Paragraph 14 observed thus :-

“14. Section 18 vests wide powers in the Commission. Under clause (a), it is empowered to recommend the payment of compensation or damages to the concerned government or authority where the enquiry has disclosed the commission of a violation of human rights or negligence in the prevention of a violation of human rights or abetment thereof. The provisions of Section 18(a) correspond to the functions of the Commission specified in Section 12(a). The Commission is

2 2016 SCC OnLine All 239

entitled to approach the Supreme Court or the High Court for such directions, orders or writs as that Court may deem necessary. The Commission under clause (c) of Section 18 can recommend to the concerned government or authority at any stage of the enquiry to grant interim relief to the victim or the members of his family. Under clause (e), the Commission has to send a copy of its inquiry report together with its recommendations to the concerned Government or authority which shall, within a period of one month or such further time as may be allowed, forward its comments on the report, including the action taken or proposed to be taken thereon to the Commission.”

6. In the present case, even from paragraph 2 of the impugned order, we find that the foundation of the dispute arising between the parties is out of a property transaction entered into by the respondent No.3 with the petitioner, the legality and validity of which is seriously questioned before the Commission. It is observed by the Commission that both the parties are into real estate business, running their ventures under registered names and that the bone of contention is a part of the parcel of the land bearing Survey No.269. Respondent No.3 asserts that the petitioner has illegally and by unlawful means, on the strength of forged, fabricated documents, entered into the possession of the disputed land, thereby divesting the respondent No.3 of his legal rights over it. The petitioner on the other hand asserted his legal title and possession by virtue of registered documents, power of attorney etc. and charged the respondent No.3 of attempting to

grab back the parcel of the land in question.

7. The grievance of the respondent No.3 is that despite approaching the police upto the highest level, seeking registration of FIR against the petitioner, all his attempts turned futile, while on the other hand, at the behest of the petitioner, a false and malicious offence of rioting, mischief, causing hurt etc. came to be registered against him and others vide Crime No.54 of 2020, in collusion with the concerned police officer of Bhayandar Police Station.

8. The impugned order records the series of civil litigations between the respondent No.3, the petitioner and others pending before the Civil Court. The Commission observed that though the dispute is over the title and possession etc., the concerned police officer went ahead with the investigation of the crime and charge sheeted respondent No.3.

9. It is pertinent to extract that portion of the impugned order which weighed with the Commission while issuing the aforesaid directions. The same is reproduced reading thus :-

“4. The aforesaid accusations came to be strongly controverted by the respondent police, vide their police enquiry reports Ex. 'A' to Ex. 'G' which includes complainant's rejoinders, written notes of arguments etc and also Spl. IGP,

Investigation Wing report. I have carefully gone through the record. Pertinent to note that complainant's Ld. Adv. Mishra has vehemently attacked on the very foundation of the crime registered against the complainant (Crime no. 54/20) by asserting that despite the police concluding about dispute over the title over the parcel of the land; despite the civil litigations subjudiced before the Court, the police proceeded with investigation of the crime against the complainant, though at the same time very conveniently sought to justify their non action on complainant's grievance against this opponent on the ground of pendency of the civil litigation in the Court.

5. The first legal issue which needs to be settled is whether Civil and Criminal proceedings can be conducted simultaneously in the same matter? The answer to this question is in the affirmative as these proceedings are having distinct impetus and objective. Reliance with advantage is placed on decision of Supreme Court in re- P. Swaroopa Rani AIR 2008 SC 1884, observing that "It is, however, well-settled that in a given case, civil proceedings and criminal proceedings can proceed simultaneously. Whether civil proceedings or criminal proceedings shall be stayed depends upon the fact and circumstances of each case."

The issue on the aforesaid proposition of law is settled way back in the year 1954 by the Supreme Court in the case of re- M. S. Sheriff AIR 1954 SC 379, and reiterated in the decisions supra above and then in subsequent decision in re- Syed Askari Hadi Ali Augustine Imam - AIR 2009 SC 3232.

Andhra Pradesh High Court in the case of re- Gurucharnam 2013 Cr. LJ 1061 pointed out that when there are both civil and criminal liabilities in respect of an issue against the person, he is liable to be prosecuted both on the criminal and on the civil side ----

6. In the light of the above discussed proposition, the issue highly debated on complainant's behalf by Ld. Adv. Mishra does not survive for consideration. But at the same time what is significant to note is the fact that admittedly, complainant's attempts to initiate criminal action against his opponent turned futile as the very same police refused to take any cognizance on the ground of pendency of the civil litigations between him and his opponent. No doubt Crime no. 54/20 is registered under the various penal heads under IPC against the complainant. It is relevant to note the aforesaid crime relates to charges u/s 143, 147, 149, 323, 427, 447, 504, 506 IPC r/w. Sec 37(1) and 37(3) of Maharashtra Police Act, 2000.

Infact, quashing of the said FIR was sought by invoking the Writ Jurisdiction of the High Court of Judicature at Bombay vide CWP No.1101/21. However, the Division Bench of the High Court by order 04.10.2021 dismissed the petition. Observations in para 3 to 5 reads thus :

“3. The First Information Report which was lodged on 20 February 2020 by the Respondent No.2 was on the allegations that the Respondent No.2 carries out the business of construction. It is stated that the Respondent No.2 had, as a part of joint venture, obtained development rights in respect of the property on 16 July 2004 and the possession of the property was given to him. It was further stated that one Jai Gurudev Realty had made certain fabricated deeds and the Respondent No.2 file a civil suit against them. It was also stated that an attempt was made by one more party named Pratima Pandey to take possession of the property. However, the Respondent No.2 resisted the same. It is further alleged that the partner of Jai Gurudev Realty had threatened the Respondent No.2 and were attempting to take possession of the property from them. The Respondent No.2 asserted that in the property he had leveled the ground and put up iron sheets as a compound. On 20 February 2020 the Respondent No.2 received information that 10-15 persons with JCB machines were attempting to trespass in the property and when the Respondent No.2 went to the spot, he was threatened. Accordingly, the FIR was filed naming the Petitioner with 10-15 persons under Sections 143, 147, 149, 323, 427, 447, 504, 506 of the Indian Penal Code r/w. Section 37(1) and 37(3) of the Maharashtra Police Act, 1951.

4. The learned Counsel for the Petitioner sought to contend that the basic ingredients of the Section invoked in the FIR are not made out by the bare perusal of the FIR. It is submitted that as far as Section 447 of IPC is concerned, and the documents placed in this Petition that the Respondent No.2 was not in possession and once these documents show that the Respondent No.2 was not in possession, there cannot be any offence made out under Section 447 of IPC and consequently, the FIR under the other Sections invoked should also fall.

5. We have perused the First Information Report. At various places, right from the beginning, the Respondent No.2 has asserted that the Respondent No.2 is in possession. What the Petitioner is calling upon this

Court to do is to give a declaration that the Respondent No.2 is not in possession relying upon the documents annexed to the Petition. This exercise cannot be done while considering whether the First Information Report can be quashed under the extraordinary jurisdiction of this Court. This question would be a matter of trial, or if the Petitioner seeks to invoke other remedies under the Code of Criminal Procedure. No case is made out to quash the First Information Report under the settled parameters."

7. With such clear findings on record by High Court, complainant is completely barred from raising any question about the legality, validity of the police action in registering crime against him. Moreover, perusal of the additional report Ex. 'F' submitted by DCP Zone I, Mira Road reveals that charge sheet against the complainant and others, vide RCS No. 112/22, dated 10.05.2022 is filed before Ld. JMFC, Court No. 6, Thane. Therefore, the very jurisdiction of this Commission to examine and conclude about the legality and propriety of the police action, does not arise in view of the bar u/s. 36(1) of the Act of 1993 r/w. Reg. 12(i) of the Maharashtra State Human Rights Commission (Procedure) Regulations, 2011. Complainant Shri Thakkar has every liberty and right to contest the charges by appropriate defense during course of trial before the Court.

8. During course of my discussion, I have mentioned that the complainant's grievance against his opponent of having committed forgery, manipulation of the documents as regards the disputed parcel of land has not been entertained by the police and thereby divested him of his right to get justice. This is a very serious legal lacuna as admittedly, when a victim approaches the police with an allegation of occurrence of cognizable offence then the police is duty bound to initiate steps in accordance with the provisions u/s. 154 Cr. PC. The law on the scope and ambit of Sec. 154 Cr. PC is ably examined and analysed by Supreme Court in re-Lalita Kumari Case ----, in WP (Criminal) No. 68/2008. In para 39 & 40 of the judgement, the Court observed as under :

"39. Consequently, the condition that is sine qua non for recording an FIR under Section 154 of the Code is that there must be information and that information must disclose a cognizable offence. If any information disclosing a cognizable offence is led before an officer in charge of the police station satisfying the requirement of Section 154(1), the said police officer has no other option except to enter the substance thereof in the

prescribed form, that is to say, to register a case on the basis of such information. The provision of Section 154 of the Code is mandatory and the concerned officer is duty bound to register the case on the basis of information disclosing a cognizable offence. Thus, the plain words of Section 154(1) of the Code have to be given their literal meaning.

“Shall”

40. The use of the word “shall” in Section 154(1) of the Code clearly shows the legislative intent that it is mandatory to register an FIR if the information given to the police discloses the commission of a cognizable offence.”

9. In the light of the law discussed above and applying it to the facts at hand, I am of the opinion that complainant's grievance on this particular issue has to be held in his favour as irrespective of the civil litigations pending before the Court regarding which the law is made very clear that simultaneous action can be taken, as pointed out by the Supreme Court in the decisions supra above, a direction to Commissioner of Police, Mira Bhayandar Vasai Virar for registering complainant's FIR deserves to be issued.

10. So far as the role of respondent Municipal Corporation is concerned, apparently a casual approach seems to have been adopted in dealing with the entire complex issues as reflected from their response on record. It is rather strange as to how and on what basis it went ahead with approval of the plans etc in favour of complainant's opponent when all the while the complainant has been harping by moving repeated applications for not sanctioning any such approval for correction of their records, as regards the title and proprietary rights over the parcel of land in question. Respondent Municipal Commissioner, Mira Bhayandar Municipal Corporation is therefore directed to reconsider the complainant's objections in its proper perspective and rectify the errors in the record by following the due procedure of law.”

10. Let us now refer to the relevant provisions and the object in enacting the said Act. The Protection of Human Rights Act, 1993 was enacted with the objective of providing for the

constitution of the National Human Rights Commission, State Human Rights Commissions in the States, and Human Rights Courts for the better protection of human rights. The legislative intent underlying the enactment of the Act, 1993 is to strengthen institutional mechanisms for the protection and enforcement of human rights in India. The statutory framework created under the Act provides both national and state-level bodies empowered to inquire into allegations of human rights violations and to recommend appropriate remedial measures.

11. Chapter V of the Act, 1993, comprising Sections 21 to 29, contains provisions governing the constitution, powers, and functioning of the State Human Rights Commissions. Section 21 provides for the establishment of a State Human Rights Commission, while Section 29 extends, *inter alia*, the application of Section 18 of the Act to the State Commissions. Section 18, which falls under Chapter IV of the Act, prescribes the steps to be taken during and after inquiry. Thus, the statutory scheme ensures that the procedural and substantive safeguards applicable to the National Human Rights Commission are, to a considerable extent, equally applicable to the State Human Rights Commissions.

12. In the State of Maharashtra, the Maharashtra State Human Rights Commission has been constituted under the Act, 1993. The Commission was established on 6 March 2001, although it was set up earlier on 15 January 2000 vide Government Resolution No. HRC 1099/378/Pol No.14 under Section 21(1) of the Act, 1993. The Commission promotes respect for human rights and seeks to protect and enforce such rights. It employs education, information, and publicity as tools for promoting awareness and ensuring that the fundamental rights of individuals are respected and upheld.

13. Section 2(1)(d) of the Act, 1993 defines “human rights” as the rights relating to life, liberty, equality, and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. This definition is central to determining the scope and jurisdiction of the Commission. It is only when there is an allegation of violation of such rights that the Commission’s jurisdiction can be validly invoked.

14. Under the Act, 1993 and the Maharashtra State Human Rights Commission (Procedure) Regulations, 2001, a “complaint”

means any petition or communication made by a victim or by any person on his or her behalf alleging violation of human rights by a public servant. The requirement that the allegation must be against a public servant is significant and forms a jurisdictional foundation for the Commission to act. The complaint may be submitted in Marathi, Gujarati, Hindi, or English, and no fee is chargeable. This procedural flexibility is designed to make the Commission accessible to the public.

15. However, not every communication qualifies as a complaint warranting inquiry. The complaint must disclose a complete and clear picture of the matter complained against. It must contain specific allegations of human rights violation as defined under Section 2(d) read with Section 21(5) of the Act. The complaint should set out relevant facts, details of the public servant involved, and supporting material, where available. If necessary, the Commission may call for further information or direct affidavits to be filed in support of the allegations. Thus, the burden lies on the complainant to present a prima facie case indicating a violation of human rights within the statutory framework.

16. The jurisdiction of the State Human Rights Commission is not unlimited. The Maharashtra State Human Rights Commission (Procedure) Regulations, 2011 (hereinafter referred to as “Regulations, 2011”) clearly delineate the types of complaints that are not ordinarily entertainable. Regulation 8 of the Regulations, 2011 enlists twelve distinct categories of complaints that may be dismissed in limine. Regulation 8 reads as follows:

“8. Complaints not ordinarily entertainable. The Commission may dismiss, in limini, complaints of the following nature.

- a) vague anonymous, pseudonymous, illegible, trivial or frivolous;
- b) barred under Section 36 (1) of the Act;
- c) barred under Section 36 (2) of the Act;
- d) relates to civil dispute, such as property rights, contractual obligations;
- e) relates to Service matters or labour or industrial disputes;
- f) allegations are not against any public servant;
- g) allegations do not make out any specific violation

of human rights;

h) matter is subjudice before a court or tribunal;

i) matter is covered by a judicial verdict or decision of the Commission;

j) where copy of the complaint addressed to some other authority is received by the Commission or

k) matter is outside the purview of the Commission.”

17. A bare perusal of Regulation 8 makes it abundantly clear that the jurisdiction of the State Human Rights Commission is circumscribed by specific statutory limitations. The Commission is not intended to function as a parallel forum for adjudicating civil disputes, service matters, or issues already pending before competent courts or tribunals. Nor is it empowered to entertain vague or frivolous allegations lacking specificity or substantive content. The regulatory framework thus ensures that the Commission remains focused on its core mandate: the protection of human rights as defined under the Act.

18. Having carefully perused the impugned order of the Commission and the materials, it is apparent that there are civil and criminal litigations pending between the parties. The

respondent No.3 complainant who is in real estate business has the wherewithal of adopting remedies prescribed in law to redress his grievance. In fact the complainant filed for quashing of the FIR registered against him, the challenge to which failed. There is a serious dispute of title over the property as is apparent from a bare reading of the said order. Though the Commission has stated the well settled principle that civil proceedings and criminal proceedings can proceed simultaneously, the same has no application in the present case as this has nothing to do with entertaining a complaint made under the provisions of the 'said Act'.

19. Learned counsel for the petitioner relied upon the Maharashtra State Human Rights Commission (Procedure) Regulations, 2001 issued in exercise of the powers conferred by sub-section (2) of Section 10 read with Section 29 of the said Act. The learned counsel also relied on Regulation 12 of Chapter III which prescribes the procedure of dealing with complaints or suo moto action. It is pointed out that Clause 12 contains a stipulation as regard complaints not ordinarily entertainable. Clause 12(e) provides that the complaints related to civil disputes, such as

property rights, contractual obligations, etc are not ordinarily entertainable. Further, if the complaint relates to a matter which is sub-judice before a court or tribunal, it is not ordinarily entertainable.

20. In the present case, the complaint falls squarely within the categories enumerated under Regulation 8(d) and 8(g). Regulation 8(d) expressly provides that complaints relating to civil disputes, such as property rights and contractual obligations, may be dismissed in limine. The dispute in question pertains to property rights and raises a question of title. Such disputes are quintessentially civil in nature and are required to be adjudicated by competent civil courts vested with jurisdiction to determine questions of title and related issues.

21. Further, Regulation 8(g) provides that complaints which do not make out any specific violation of human rights may also be dismissed at the threshold. In the case at hand, the complaint does not indicate or disclose any serious violation of human rights as defined under Section 2(1)(d) of the Act. There is no allegation demonstrating infringement of rights relating to life, liberty, equality, or dignity of the individual guaranteed by the

Constitution or embodied in the International Covenants and enforceable by courts in India. In the absence of such specific allegations, the foundational requirement for invoking the jurisdiction of the Commission is not satisfied.

22. The combined effect of Regulations 8(d) and 8(g) is to exclude from the Commission's purview disputes that are essentially civil in character and that do not involve a demonstrable violation of human rights. The regulatory intent is to prevent the Commission from being converted into a forum for resolving private civil disputes under the guise of human rights claims. Where a matter pertains to property rights and involves adjudication of title, the appropriate remedy lies before a civil court and not before the State Human Rights Commission.

23. Reliance placed by the learned counsel for the respondent No.3 on *State of U.P. and Others vs. N.H.R.C. and Others* (supra) in our humble opinion, is distinguishable on facts. The case is related to an order passed by the Commission which related to a case of violation of human rights made out in the event of the death of an under-trial prisoner while in custody at the District Jail in Muzaffarnagar.

24. The decision in *St. Anthony High School, through its Manager* (supra) is again distinguishable on facts as what was under challenge was a recommendation made by a Commission in respect of monthly pension and other terminal benefits which were not paid by the employer on the superannuation of the respondent-employee. In such view of the matter Their Lordships issued a direction to the State Government to apply its mind to the report of the Commission as well as the recommendations contained therein and to take appropriate action in terms of Section 18 of the said Act.

25. The present is a case where having regard to the civil and criminal disputes between the parties who are into real estate business, remedies under the appropriate provisions of law can be invoked and therefore the complaint filed itself is misconceived. We have no hesitation in observing that the complainant does not even meet the threshold of a prima facie case indicating violation of human rights within the statutory framework. Long and short of the complainant's grievance is that though the police registered a criminal complaint at the behest of the petitioner, the police failed to take any action on the complaint made by the complainant. In a

property dispute between the parties who are in the real estate business, having already resorted to a series of civil and criminal litigations relating to a property dispute, we fail to notice even a prima facie violation of human rights as alleged by the complainant. If the police fails to register a complaint at the behest of the complainant, there are adequate remedies under the criminal law which he can invoke. The Commission referred to **Lalita Kumari vs. Govt. of U.P. and Ors.**³ but misdirected itself in making it applicable to a complaint of human rights violation having regard to the facts and circumstances of the present case. The Commission issued directions that the Commissioner of Police, Mira Bhayandar Vasai Virar Police Commissionerate and Municipal Commissioner, Mira Bhayandar Municipal Corporation do initiate steps for necessary compliance of the directions passed in paragraph 9 and 10, by following the mandate provided under Section 18(e) of the said Act within a period of two months.

26. We find this is a fit case to interfere with the order passed by the Commission. The impugned order is accordingly quashed and set aside.

3 [2013] 14 S.C.R. 713

27. It is open for the parties to pursue the remedies available in law.

28. The Writ Petition is allowed and accordingly disposed of.

(GAUTAM A. ANKHAD, J.)

(M. S. KARNIK, J.)