



## MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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SHRC/VGM/01/2010/ 129

Date: 15<sup>th</sup> January 2010

### Case Nos.-250/2009-10, 1530/2009-10 and 3228/2009-10

Name of the Complainant : Chimutai Ambu Pingale  
Ganesh Peth, Near Pagache Talim  
Chinchwad, Pune - 33.

Vs.

- 1 The Commissioner of Police  
Pune
- 2 The Sr Police Inspector  
Chinchwad Police Station  
Pune.

Date : 12 January 2010

Coram : Justice V G Munshi, Member

## ORDER

Read the averments made in the complaint and the Report received from Senior Police Inspector Police Station Chinchwad, Pune. Read the case papers. Heard the parties.

2. The complainant is resident of Chinchwad, Pune. She resided in rented room for last 30 to 35 years. She used to pay its rent to landlord Sanjay Gavande. Landlord Sanjay Gavande given these premises to Builder Rajendra Gavande for development and reconstruction of new building. According to the complainant, landlord Sanjay Gavande wanted that all the tenants should vacate these premises. He entered into an agreement with complainant on stamp paper of Rs.100/- and promised to give one room admeasuring 10' x 12' in R.C.C construction to the complainant. It was alleged that the landlord did not given any such constructed room to the complainant and cheated her by giving one room situated on the land of some



other person. The complainant did possess documentary evidence in the form of ration card, election identity card, light bill to establish her possession over disputed property during relevant period.

3. It was alleged that landlord Sanjay Gavande, Builder Rajendra Gavande with the help of Arun Maroti Jamkhade, and Charu Sudam Gunjal tried to evict the complainant from her residential accommodation. They all abused and beaten her, and threaten to cause harm to the person and life of the complainant. The complainant therefore, apprehends danger to her life and person at the hands of these persons. Every time she made complaint in Police Station, but Police did not take any action. On the other hand Police joined hands with other side and tried to implicate the complainant falsely in criminal cases. All these persons abused and beaten her on 13.04.2009 and 14.04.2009 and even thereafter. As Police did not take any action, she moved the Commission for necessary action in this matter.

4. Respondent by filing their report denied and disputed all the allegations made against them in the complaint. According to them it was a matter of civil nature and secondly they have taken proper action in this matter.

5. All these cases are similar in all respects. Therefore, they were heard together and now decided by common order.

6. Therefore, it is necessary to view the case in the light of legal facts and circumstances brought on record and also in the light of legal position.

(i) There is no scope for doubt that there arose a dispute of civil nature among the parties. The dispute that arose among the parties or referred in the complaint is of civil nature and therefore, it is to be heard and decided by the competent Civil Court and not by the Commission. In other words the Commission in such matter cannot go so deep into the merits of the case, and record findings or order on such issues of civil nature and that too without jurisdiction. In that case it is incumbent upon the complainant to select and avail proper remedy available under law.

The Division Bench of High Court Bombay in

A I R 2006 Bombay 44,

(State of Maharashtra Vs Sou Shobha Vitthal Kolte)

held that, .



R/R,HRG - RECOMM



“Once a petitioner comes before Commission complaining of violation of human rights based on the right created under a statute and the statute itself provides a mechanism for redressal by way of appeal, revision or otherwise, the Commission ordinarily should not entertain a complaint and direct the parties to pursue their remedy under the statute.”

In view of the principle laid down in the decision referred to above, the complainant has to pursue proper remedy. The Commission cannot entertain such matter.

(ii) According to the Respondent, the complainant every now and then comes to the Police Station and causes great nuisance to the Police. According to her, Police should pressurize, the landlord and Builder to give one RCC constructed room to the complainant. That on 04.06.2009 she as usual, went in Police Station Chinchwad, and obstructed the Police from discharging their duties. Therefore, offence at Cr. No. 126/2009 under Sections 353, 504 of IPC was registered against her. She was produced before Magistrate and she was remanded in Magisterial Custody since 23.09.2009. After completing investigation charge sheet was filed in the Court and this Case No. 989/2009 is pending before Court. In all eight criminal cases are registered against the complainant in Police Station. Therefore, all these aspects that she was falsely implicated in criminal cases etc are to be heard and decided by the Court where criminal cases are pending and not by the Commission in view of clause 8 (h) of the Maharashtra State Human Rights Commission (Procedure) Regulations, 2001 r/w Sec. 10 of the Protection of Human Rights Act, 1993. The complainant can very well take all these defences before Court at the time of trial.

(iii) In this matter ACP (Pimpri Division) Pune did inquiry and submitted report dated 27.08.2009. It mentions that the complainant has formed habit of making complaints against persons and Police. The Report shows that in seven NC cases were registered against number of persons on the reports lodged by the complainant in Police Station. All these incidents arise out of civil dispute. The Police advised her to



approach Civil Court and to avail proper remedy. I see no reason to disagree with report.

(iv) At the same time it is incumbent upon the Respondent Police to keep close watch on the situation, to see that no such unpleasant incident is repeated in future and peace, law and order is maintained. It is also incumbent upon the Respondent Police to see that the complainant does not get any harassment or nuisance from the other Respondents named in the complainant.

(v) The complainant made grievance that she was beaten by the Respondent on 13.04.2009, 14.04.2009 and on different occasions and Police did not take any action against them, except of recording NC cases. Therefore, it is necessary to have proper investigation in NC Cases No. 153/2009, NC 251/2009 and No. 254/2009 registered in Police Station Chinchwad on 08.03.2009, 13.04.2009 and 14.04.2009 respectively. Therefore, the Commission recommends the Respondent Sr Police Inspector Police Station Chinchwad to move the Magistrate, in view of the provisions of Sec. 155 (2) of Cr PC, and seek necessary permission for investigation and to investigate the NC Cases accordingly and to take action according to law.

(A) Copy of this order be sent to Senior Police Inspector, Police Station Chinchwad for information and necessary action, according to law.

(B) Copy of the order be sent through Secretary, State Human Rights Commission, Mumbai.

With these observations and recommendations the cases No. 250/2009-10, 1530/2009-10 and 3228/2009-10 are disposed of accordingly.



*V. G. Munshi*  
(Justice V G Munshi)  
Member, SHRC