

IN THE COURT OF ADDL.CHIEF JUDICIAL MAGISTRATE  
24TH COURT, BORIVALI, MUMBAI

C. C. No.3554/MISC/2024

Mr. Vinod Babu Bhavar @ Varli

... Applicant

v/s.

1. Mr. Rajesh J. Singh & Ors.

... Respondents

ORDER BELOW EXH. 1

Perused allegations in the complaint and the copies of the relevant documents filed with the complaint.

2. This is an application for giving directions to the concerned police to investigate the cognizable offence against in all accused persons.

3. It is the case of the applicant that all the proposed accused persons have cheated the applicant and his family members by getting executed the Conveyance Deed, Memorandum of Understanding in respect of property bearing no. Survey NO.28, corresponding to CTS No.96 & 97 at Village Arangal, Taluka-Borivali, Mumbai Suburban, admeasuring to 5 Acer 29 Gunthas, for consideration amount of Rs.10 crores. Accordingly, Memorandum of Understanding was executed on 13/12/2012. Thereafter, on 12/03/2019 the respondent called the applicant and his family members at the office of Sub-Registrar, Borivali and obtained their signatures on some documents and then they have been told that they will receive the payment from the proposed accused nos.5 to 11. Thereafter, in the month of April, 2024, the proposed accused nos.5 to 11 came at the said property and started their ownership right on the said property. In the inquiry made by the applicant to the proposed accused nos.5 to 11, they told that already they have paid sum of Rs.1 crore 67 lakhs to the proposed accused nos.1 to 4 and acquired the said larger property under the registered Deed of Conveyance dated 12/03/2019. After knowing this fact, the accused got shocked and realized that the proposed accused nos.1 to 4 have played fraud upon the applicant and his family members without paying any money to him and executed Deed of Conveyance on 12/03/2019 in favour of the proposed accused nos.5 to 11.

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4. It is further case of the applicant that the applicant and his family members have repaid the amount of Rs.50 lakhs to PDR Developers, received under the execution of Memorandum of Understanding. There is further contention of the applicant is that the proposed accused persons have cheated the applicant and his

family members by getting executed the Memorandum of Understanding and by executing registered Conveyance Deed by proposed accused nos.1 to 4 in favour of the proposed accused nos.5 to 11, therefore, they prayed to investigate the cognizable offence of making fraud of their property by all the proposed accused.

5. I have gone through the application, Memorandum of Understanding, Conveyance Deed. I have also heard Ld. Advocate for the applicant at length.

6. The applicant has averred that he and his family members have repaid the amount received under Memorandum of Understanding to the PDR Developers, however, by making false representation they have executed the registered Conveyance Deed and cheated the applicant and his family members.

7. It appears from the Memorandum of Understanding and Conveyance Deed dated 12/03/2019 that there was an agreement for sale between the applicant and proposed accused persons regarding the disputed property bearing no. Survey NO.28, corresponding to CTS No.96 & 97 at Village Arangal, Taluka-Borivali, Mumbai Suburban, admeasuring to 5 Acer 29 Gunthas, However, it appears that it is not completed for non-payment of amount of consideration. In such circumstances, the applicant and his family members have civil remedy to approach before the appropriate civil court and to get cancelled the Memorandum of Understanding and alleged Deed of Conveyance dated 12/03/2019.

8. The Ld. Advocate for the applicant has also submitted that the applicant and his family members have filed civil suit before City Civil Court, however, they have not filed any document in that respect of this proceeding. Though there is civil remedy available to the applicant and though they have availed it so, as per the submission of their advocate, then the alleged act of proposed accused regarding execution of Memorandum of Understanding and Deed of Conveyance does not come in the definition of cheating and fraud. It cannot be constituted as an

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offence. As such, the alleged transaction of execution of Memorandum of Understanding and Conveyance Deed is purely of a civil nature, therefore, the present application is liable to be rejected. Accordingly, I pass following order.

#### **ORDER**

1. The present application for seeking directions to investigate the alleged offence u/sec.175(3) of BNSS stands rejected.

2. The application is accordingly disposed of.

Mumbai.  
Date : 08/01/2026

sd/-  
(B.N.Chikne)  
Addl. Chief Judicial Magistrate,  
24<sup>th</sup> Court, Borivali, Mumbai.

ASD.