

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION NO. 312 of 2022

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MOHAMMADISHAQ HABIBBHAI SOFAWALA

Versus

STATE OF GUJARAT

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Appearance:

MR TUSHAR L SHETH(3920) for the Applicant(s) No. 1

for the Respondent(s) No. 2,3,4,5

MR RONAK RAVAL, APP (2) for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI**

Date : 13/01/2022

ORAL ORDER

Heard learned advocate Mr.Tushar L. Sheth for the petitioner.

It is submitted by the learned advocate for the petitioner that the petitioner was in possession of the shop in question. Learned advocate has referred the documents which are annexed with the memo of the petition and, thereafter, pointed out that the concerned Small Cause Court, Surat, has passed a decree in favour of the petitioner whereby original defendants of the said suit were restrained by way of permanent injunction by directing that the plaintiff shall not be dispossessed from the rented shop which is situated at Rander Road, Adajan Patia known as "Denaniketan Co-operative Housing Society Limited" at higher ground floor at Shop Nos.5 and 6 without due process of law. It is further pointed out that even civil proceedings are pending between the parties before the concerned Civil Court and now, in the proceedings filed under Section 145 of the Code of

Criminal Procedure, 1973 by Police Sub-Inspector, that too, in the year 2013, the concerned Executive Magistrate has though rejected the application filed by the Police Sub-Inspector, restrained all the opponents of the said proceedings (including the present petitioner) by directing that they shall not enter into the shops in question. It is submitted that because of the said order passed by the concerned Executive Magistrate, now, the present petitioner is dispossessed from the shop Nos.5 and 6 situated at the above place and the concerned Police Sub-Inspector has applied the seal on the said shops which is not permissible.

I have perused the material placed on record. I have also considered the submissions canvassed by the learned advocate for the petitioner.

Looking to the facts and circumstances of the present case, issue notice to the respondents, returnable on 21.04.2022. Learned APP waives service of notice for the respondent State.

Till the returnable date, ad-interim relief in terms of Paragraph-12(B) is granted.

(VIPUL M. PANCHOLI, J)

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