

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10941 OF 2025

Amit Maheshwar Dharkas	...Petitioner
<i>Versus</i>	
The State of Maharashtra And Ors.	...Respondents

Adv. Sumedh S. Modak a/w R. M. Gogte, for the Petitioner.
Adv. Ketan V. Joshi B'PNL a/w Mamta S. Srivastava, AGP, for the
Respondent-State Nos.1. to 3.

CORAM: ARUN R. PEDNEKER, J.
DATED : 28th August 2026

PC:-

1. Heard learned Counsel appearing for the Petitioner.

2. Learned Counsel for the Petitioner submits that an Order under Section 48 (7) under the Maharashtra Land Revenue Code, 1996 is passed against the Petitioner for excavation of the earth of 1003 brass and accordingly penalty is imposed by the impugned order. He points out the Panchanama on the basis of which the impugned order is passed, that Panchanama indicates that there was excavation of 1003 brass of earth and the same was utilized on the same place for levelling purposes. The Panchanama itself

indicates the entire 1003 brass earth is used on the same plot of land for levelling purposes.

3. Considering the judgment of the Supreme Court in the case of *Promoters & Builders Associates v/s. State of Maharashtra & Ors*¹, particularly the observations made in Para 11 thereof, no penalty can be imposed if the excavated soil is used on the same plot, as it does not constitute “minor minerals”. The para 11 of the said judgement, reads as under :

“11. Ordinary earth has been brought within the fold of a minor mineral by Notification of 3-2-2000 issued under Section 3(e) of the 1957 Act. The said notification is in the following terms :

“Notification

GSR 95 (E).- In exercise of the powers conferred by clause (e) of Section 3 of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Central Government hereby declares the ‘*ordinary earth*’ used for *filing or levelling purposes in construction of embankments, roads, railways, buildings* to be a minor mineral in addition to the minerals already declared as minor minerals hereinbefore under the said clause.

(F. No. 7/5/99-M. VI)

Sd/-

(S.P. Gupta)

Joint Secretary to the Government of India”

(emphasis supplied)

¹ (2015) 12 SCC 736

It is, therefore, clear that “*ordinary earthy*” used for *filling or levelling purposes in construction of embankments, roads, buildings* is deemed to be a *minor mineral*.”

4. Considering the same, the impugned order is quashed and set aside. The Writ Petition is disposed of accordingly.

[ARUN R. PEDNEKER, J.]