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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1924 OF 2015

Syed Mainoddin Shadulasab. ..Petitioner
-Versus-
The State of Maharashtra and others. ..Respondents

**WITH
CIVIL APPLICATION NO.2572 OF 2015
IN
WRIT PETITION NO.1924 OF 2015**

VemulaPalli Murlimohan s/o Venkatramaiah. ..Applicant/ Intervener
-versus-
The State of Maharashtra and others. ..Respondents

.....
Mr.S.B.Talekar, Advocate for the Petitioner.
Mr.K.M.Suryawanshi, AGP, for the Respondent Nos.1 to 5/State.
Mr.A.R.Syed, Advocate for the Applicant/ Intervener.
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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 20th February, 2015

Per Court:

1 This matter has been heard at length. I have considered the submissions of Mr.Talekar, learned Advocate appearing on behalf of the Petitioner, Mr.Suryawanshi, learned AGP appearing on behalf of the Respondent Nos.1 to 5/State and Mr.Syed, learned Advocate, who has preferred a civil application for intervention, which is tendered across the

Bar on behalf of the Applicant (VemulaPalli Murlimohan s/o Venkatramaiah).

2 In the course of submissions of the learned Advocates for the respective sides, it is conceded that in the contract for excavation of sand in relation to the sand spot/ sand Ghat, which had been allotted to the Petitioner, the issue in respect of compensation or change in the sand spot or refund of amount or extending the period for excavation of sand, can be decided only by the State Government. This is evident from clause-9 (second paragraph) of the Government Resolution dated 12.03.2013 bearing No.Gaukhani-10/0512/Pra.Kra.300/Kha, which is placed on record by the Intervener.

3 It does became evident that this Court cannot decide the said aspect and the same has to be left to the State Government for it's decision. It is also admitted that the Petitioner has already moved such an application/ representation dated 31.01.2015 seeking orders from the State Government.

4 In such circumstances, the litigating parties, therefore, made a request to this Court not to deal with the merits of the case and the rival contentions of the parties, to avoid the possibility of any observation being

made by this Court which is likely to influence the State Government while deciding the application of the Petitioner dated 31.01.2015.

5 Acceding to the said request, I am refraining from considering the challenge posed in this petition thereby assailing the impugned decision of the Additional Commissioner dated 10.02.2015, so as to keep open the contentions of the parties for being considered by the State Government while deciding the application made by the Petitioner dated 31.01.2015.

6 The Petitioner has relied upon certain judgments of the Division Bench of this Court which I am not adverting to in view of the above recorded fact situation. Needless to state, these judgments can be cited by the Petitioner before the State Government in support of his application dated 31.01.2015.

7 The learned Advocate appearing for the Applicant/ Intervener, on instructions from the Applicant who is present in the Court, submits that the Applicant would move an intervention application in the application dated 31.01.2015 filed by the Petitioner, before the State Government in his capacity of being the current highest bidder in relation to the same sand spot pertaining to which the Petitioner is seeking

extension of the excavation period.

8 Mr.Talekar makes a statement, on instructions, that the Petitioner is willing to pay an amount of Rs.5 lacs over and above the auction bid put forth by the Intervener. The Petitioner is, therefore, willing to place an undertaking before the State Government in addition to the prayers made and without prejudice to the prayers in the application/ representation dated 31.01.2015. Mr.Talekar clarifies that this offer is as regards the proposed excavation of sand to the extent of 4947 Brass available and that the prayers in the application dated 31.01.2015 shall be pressed on their own footing and merits independent of this offer.

9 The learned Advocate appearing for the Intervener submits that he shall be making appropriate statement on the said offer before the appropriate authority and is willing to raise his offer so as to give more revenue to the State.

10 In the light of the above, this Writ Petition is disposed of with the following directions:-

- (a) The Petitioner shall appear before the Respondent No.1/
Secretary, Department of Revenue and Forest on 26.02.2015
at 03:00 pm.

- (b) The Intervener/ Applicant, if so desires, may move an application for intervention before the Respondent No.1 on the said date and such application, if made, shall be decided on it's own merits by the Respondent No.1.
- (c) The learned Division Bench of this Court has passed an order (interim relief) dated 13.02.2015 in Writ Petition No.1761/2015 whereby the final allotment of the sand spot/ sand Ghat at village Yesgi on the bank of river Manjra, was not to be finalized till 18.02.2015. Therefore, by recording the statement of the Petitioner as well as the Intervener that they are willing to deposit an amount by raising their offer in order to ensure that more revenue would be given to the State Exchequer, that I am extending the said relief by directing the Respondent No.1/ State Government not to finalize the order of allotment of the said sand spot till the application of the Petitioner dated 31.01.2015 is decided on it's own merits in the light of Clause-9 of the Government Resolution dated 12.03.2013.
- (d) In any event, Respondent No.1 shall decide the Petitioner's application dated 31.01.2015 as expeditiously as possible and preferably on or before 10.03.2015.
- (e) The efficacy of this order shall come to an end upon the State

Government deciding the application of the Petitioner dated 31.01.2015 on or before 10.03.2015, on which date the litigating parties would be personally present before the Respondent No.1. In other words, the order to be passed by Respondent No.1 on the Petitioner's application, shall be delivered in the presence of the parties on or before 10.03.2014.

- (f) Needless to state, in the event the application filed by the Intervener is allowed, the State Government shall deal with his contentions within the framework of law.
- (g) The Respondent No.1 shall restrain the litigating parties from seeking adjournments on frivolous or unreasonable grounds, so as to ensure that the decision/ order is delivered on or before 10.03.2015.

11 The learned AGP to communicate this order to the Respondent Authorities.

12 In view of disposal of the Writ Petition, the Civil Application does not survive and same is also disposed of.

(RAVINDRA V. GHUGE, J.)