

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12699 OF 2015

Shri Arun Dnyanoba Gholap.] ... Petitioner

Versus

The Additional Collector, Solapur, and Ors.] ... Respondents

Mr. M. L. Patil for Petitioner.

Mrs. M. S. Bane, 'B' Panel Counsel for Respondents.

CORAM :- M. S. SONAK, J.

DATE :- DECEMBER 18, 2015

P. C. :-

1. **Not on board. Upon production, taken on board.**
2. Heard the learned Counsel for parties.
3. The petitioner has already instituted an appeal against the impugned order before the Additional Collector. The impugned order requires the petitioner to pay an amount of Rs.49,75,160/-.
4. As against the impugned order, the petitioner had already preferred an appeal before the Sub-Divisional Officer. The said appeal has been dismissed. The petitioner has now preferred a second appeal before the Additional Collector.

5. The reason for instituting this petition is that the petitioner needs a stay in the matter of recovery of amount of Rs.49,75,160/-. Mr. Patil, learned Counsel for petitioner, submits that the amount is not due and payable, because the petitioner has not carried out any illegal excavation. Insofar as payment of royalty is concerned, Mr. Patil submits that the same has already been paid. The royalty charges are approximately Rs.6 lacs. Mr. Patil further says that there are errors in the making of the impugned order.

6. All these issues will undoubtedly be considered by the Second Appellate Authority. However, if the petitioner desires a stay against recovery, it is only appropriate that the petitioner secures at least a substantial portion of the demand. This is more so, since even the First Appellate Authority has confirmed the demand.

7. Therefore, there shall be a stay upon recovery of the amount of Rs.49,75,160/- during the pendency of the second appeal before the Additional Collector, subject to the petitioner depositing with the respondent no.3 i.e. Tahsildar, Pandharpur, and amount of Rs.35 lacs within a period of four weeks from today. In case the amount is deposited, there shall be a stay during the pendency of the second appeal before the Additional Collector. The Additional Collector is directed to dispose of the appeal within a period of three months from today. In case the amount of Rs.35 lacs is not deposited by the petitioner within a period of four weeks from today, there shall be no stay upon the recovery. The recovery, however, shall be subject to the final decision in the second appeal instituted by the petitioner.

8. Rule is accordingly made absolute to the aforesaid extent.
There shall be no order as to costs.

9. All concerned to act on basis of authenticated copy of this
order.

(M. S. SONAK, J.)