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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6425 OF 2014

Prakash Harvandkar ...Petitioner
vs.
Collector, Alibag & Anr. ...Respondents

Ms Mani Prakash i/b Gayatri Singh and Kranti L.C.
for the petitioner
Mr.V.S.Gokhale, AGP for the respondent Nos.1 and 2.

CORAM : A.S.OKA, &
A.K.MENON, JJ.
DATE : JANUARY 16, 2015

P.C.:

1 Heard the learned counsel and the learned AGP for the respondent Nos.1 and 2. Considering the narrow controversy involved, the same is forthwith taken up for final disposal.

2 Following are the admitted facts:

(a) Under order dated 25th February 2010, the petitioner was permitted to excavate sand from the spot specified in the said order. Quantity of sand permitted to be excavated was mentioned as 7644 brass;

(b) Under the said order, the petitioner was permitted to make excavation of sand only till 31st July 2011 and that he was under an obligation to remove the accumulated quantity of sand and to sell

the same or before 10th August 2011;

(c) On 30th July 2011, the petitioner submitted an application for grant of necessary permission (Duyyam Parvana) in order to facilitate the transport and sale of excavated sand.

(d) It appears that on 25th August 2011, the District Mining Officer called for the information from the Tahsildar, Mangaon. On 29th September 2011, the Tahsildar, Mangaon furnished information that 661 brass of sand was lying at the spot.

(e) The State Government is competent to grant necessary permission for transport of sand and that the State Government by communication of January 2014, rejected the prayer made in the petition for grant of permission.

3 Thus, it is apparent that 10 days before the stipulated time for the removal of the sand was to expire, the petitioner applied for permission to transport the sand. The said application was kept pending for inordinately long time and was rejected as late as in January 2014. Thus, there is no default on the part of the petitioner in the sense that he could not remove the sand within the stipulated time on account of the failure of the respondents to grant permission to transport the sand.

4 Therefore, considering the admitted facts, the petition must succeed. Hence, we pass the following order:

- (I) The order passed by the State Government in January 2014 (Exh.H page 138) on the application made by the petitioner for grant of permission (Duyyam Parvana) is hereby set aside;
- (II) We direct the State Government to issue necessary permission/permit (Duyyam Parwana) to the petitioner within a period of six weeks from today;
- (III) We make it clear that the permission/permit will be confined to the removal of quantity of 661 brass of sand from the spot at village Repoli, Taluka Mangaon, District Raigad. Before removing the stock and transporting the same, advance notice of one week will be issued by the petitioner to the District Mining Officer, Alibag, District Raigad specifying the date and time on which the stock will be removed. It will be open for the District Mining Officer to depute any Officer working under him to remain present to ensure that the petitioner removes the stock only to the extent of 661 brass of sand;
- (IV) We make it clear that the petitioner will not be entitled to remove any stock over and above 661 brass of sand;
- (V) We make it clear that it will be open for

the Officers appointed by the District Mining Officer to remain present at the spot every time when the stock is lifted till the total quantity of 661 brass of sand is lifted from the spot;

(VI) Writ Petition is allowed on above terms;

(VII) All concerned to act upon an authenticated copy of this order.

(A.K.MENON, J.)

(A.S.OKA, J.)