

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11545 OF 2015

Anthony I. Carneiro

.. Petitioner

vs.

The Hon'ble Tahsildar, Vasai and ors.

.. Respondents

Mr. P.S. Dani, Sr. Advocate i/b Jui Nerurkar for the Petitioner.

Ms A.D. Vhatkar, AGP for Respondent No.1.

CORAM : M. S. SONAK, J.

DATE : 23 NOVEMBER 2015.

P.C. :-

1] Not on board. Upon production, taken on board.

2] As against the order dated 31 July 2014 made by the Tahsildar in purported exercise of powers under the Maharashtra Land Revenue Code, 1966 (said Code).

3] Against the said order, an appeal would lie to the Sub-Divisional Officer (SDO). Accordingly, there is no necessity to entertain the present petition.

4] Mr. Dani, learned senior advocate for the Petitioner, however, points out that the impugned order dated 31 July 2014 was never communicated to the Petitioner. The Petitioner obtained knowledge about the impugned order, when the Petitioner was served with demand notice dated 15 September 2015 on 7 November 2015. These are matters which the Petitioner can set out in the application, seeking condonation of delay. At this stage, there is no reason to presume that these matters will not be taken into consideration by

the Appellate Authority.

5] Without prejudice, Mr. Dani makes a statement that the appeal will be instituted within a period of four weeks from today. Mr. Dani, however, submits that some interim protection is liable to be granted to the Petitioner, particularly since according to him, the impugned order has been made in violation of principles of natural justice and the same is even otherwise in excess of jurisdiction.

6] Without going into merits of the matter, the Petitioner is relegated to avail alternate remedy of appeal, available under the said Code. However, for a period of eight weeks from today, the impugned order and demand notice dated 15 September 2015, which is merely consequential to the impugned order shall not be enforced. This is subject to the Petitioner depositing with the Tahasildar, royalty amount of Rs.1,31,200/-. No doubt, such deposit shall be without prejudice to the rights and contentions of the Petitioner.

7] It is made clear that all contentions of all parties are kept open and this petition is not entertained merely on account of availability of alternate remedy and same is disposed of accordingly.

8] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)