

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

921 WRIT PETITION NO. 9086 OF 2016

SOMNATH DAMODAR SHIRSAT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Jayabhar Dattatraya R.
AGP for Respondent/State : B.A. Shinde
...

CORAM : T.V. NALAWADE, J.
DATED : 29th November, 2016.

ORDER :

1. The petition is filed to challenge the order made on Exh. 57 in R.C.S. No. 314/2014, which is pending in the Court of Civil Judge, Senior Division, Ahmednagar. The Court has directed the present petitioner to pay the Court fees on the amount of Rs. 4,62,025/-. Heard the learned counsel for petitioner.

2. It appears that Tahsildar had issued show cause notice to the present petitioner and he was asked to show cause as to why penalty of Rs. 4,62,025/- should not be recovered from him for his act of illegal excavation of sand. The order was made under provisions of Maharashtra Land Revenue Code. The provisions of Mines and Minerals Act can also be used in such a case. The said order was challenged before the Sub Divisional Officer (SDO). The SDO has dismissed the appeal. Instead of

going further to challenge the order before the Commissioner and the Government, it appears that suit is filed to challenge the order of making payment of penalty. When the suit is filed for declaration that the plaintiff is not liable to pay any particular amount, the Court fees need to be paid in respect of that amount as per the provision of section 6 (iv) (j) of Maharashtra Court Fees Act. Similar observations are made by the Civil Court. In view the nature of relief claimed, the plaintiff must pay court fee on aforesaid amount. There are no merits in the present proceeding. The petition stands dismissed.

[T.V. NALAWADE, J.]

SSC/