

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.9030 OF 2011.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.B.Ghatol Patil, advocate for the Petitioner.
Mr.A.P.Basarkar, A.G.P for the State.

**CORAM : S.V.GANGAPURWALA AND
A.M.BADAR, JJ.**

Date : 23.02.2016.

PER COURT :

1. Heard.
2. Mr.Ghatol, learned counsel for the petitioner states that illegal excavation of sand has been carried out by the contractor. The Respondent Nos.6 and 7 were duty bound to protect the area after excavation of sand. However, Respondent Nos.6 and 7 committed dereliction of their duty and did not take steps to protect and arrest the illegal excavation of sand. Because of illegal excavation of sand ecological problem arises. In fact, Respondent Nos.6 and 7 are delinquents and the inquiry was directed to be conducted by them only. According to the learned counsel initial statements are recorded of the villagers who have stated about illegal excavation by JCB machine, however, no steps are taken.

The authorities are protecting the illegal excavation instead of taking action.

3. Mr.Basarkar, learned A.G.P submits that statements of ten (10) witnesses are recorded in the joint inspection of Tahsildar, Palam and Tahsildar, Purna. Majority of witnesses have not supported the complaint. The inquiry report is submitted, which states that there is no evidence of illegal excavation by JCB machine.

4. We have considered the submissions. No doubt, illegal excavation of sand has to be arrested as the same would result in ecological imbalance. It would appear that excavation which is the subject matter of the present Writ Petition is of the year 2009. After lapse of seven (7) years, there would not be any evidence of the quantity of excavation and the method of excavation i.e. use of JCB machine or otherwise. The Tahsildar, Purna and Tahsildar, Palam have carried out inspection and statements of witnesses are also recorded. The statements of witnesses on record does not support the complaint of the petitioner.

5. Be that as it may, it will be of no use to direct inquiry after lapse of seven (7) years. Today there would not be any evidence of the quantum of excavation and the apparatus of excavation. Needless to state, the authorities are required to be vigilant at the time when the excavation is in progress.

6. Considering the above, the Writ Petition is disposed of. No costs.

(A . M . BADAR , J .)

(S . V . GANGAPURWALA , J .)

Dt.23.02.2016.
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