

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10559 OF 2016

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.R.V.Bansode for the petitioner

Mr.Sachin Kenkal, A.G.P for the respondent nos.1 to 3

CORAM : K. K. TATED, J.

DATE : OCTOBER 15, 2016

P.C.:

1 Not on board. At the request of Advocate for the petitioner, matter is taken on board for urgent orders.

2 By this petition under Article 227 of the Constitution of India, the Petitioner challenges the order dated 1.9.2016 passed by respondent no.2 Sub-Divisional Officer, Tal.Malshiras, Dist.Solapur in R.T.S.Appeal No.25 of 2016.

3 The learned counsel for the petitioner submits that Tahsildar by order dated 1.8.2016 imposed penalty of Rs.2,06,150/- and also confiscated his vehicle bearing no.MH-45-1461 Tata made. He submits that before passing impugned order, authority failed to issue show

cause notice to the petitioner. He submits that even the Tahsildar at the time of passing order dated 21.7.2016 failed to give any reason on what basis he fixed the market value of sand @ Rs.1400 per brass and penalty of Rs.10,000/-. He submits that this court (Coram:M.S.Sonak, J.) by unreported judgment dated 18.11.2015 in Writ Petition No.10465 of 2015 Shri Arun Mahadev Rokade vs. The Additional Commissioner, Pune Division, Pune remanded the matter to the authority for deciding on its own merits by passing reasoned order. By that order, court directed petitioner in that petition to pay penalty @ Rs.15,000/- per brass i.e. five times value of the sand at the rate of Rs.3,000/-. He submits that petitioner is ready and willing to deposit sum of Rs.60,000/- with the authority within one week from today. He further submits that petitioner is ready and willing to execute personal bond for release of vehicle as per section 48(8)(ii) of the Maharashtra Land Revenue Code, 1966.

4 The learned A.G.P. for respondent submits that they have no objection if petition is allowed on the basis of order passed by this court in Writ Petition No.10465 of 2015.

5 Considering the submissions made by the learned counsel for the petitioner and as respondent has no objection for allowing this petition, following order is passed:

a) Order dated 1.9.2016 passed by respondent no.2, Sub Divisional Officer, Malshiras, Division-Akluj, Dist-Solapur is set aside and matter is remanded to decide on its own merits.

b) On deposit of Rs.60,000/- with the authority, Tahsildar is directed to release vehicle number MH-45-1461 Tata made in favour of petitioner on execution of personal bond as per section 48(8) (ii) of the said Code.

c) Sub Divisional Officer, Malshiras, Division-Akluj, Dist-Solapur is directed to decide the Appeal on its own merits as early as possible within 4 months from the receipt of copy of this order.

Parties to act on authenticated copy of this order.

JUDGE