

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3064 OF 2017

Ajay Rajendra Pawar
Age: 24 years, Occu.: Business and Agri.,
R/o Ganpati Matha, Warje Malwadi,
Tq. Havali, Dist. Pune.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Revenue Department, Mantralaya,
Mumbai – 32.
2. The Collector,
Collector Office, Ahmednagar.
3. The Additional Collector,
Collector Office, Ahmednagar.

..RESPONDENTS

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Mr. K.N. Shermale, Advocate for petitioner.
Mr. A.P. Basarkar, A.G.P. for respondents.

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**CORAM : S.B. SHUKRE, J.
DATED : 20th MARCH, 2017**

ORAL JUDGMENT :

1. Issue notice for final disposal to the respondents. Learned
A.G.P. waives service of notice for all respondents.

2. Rule. Rule made returnable forthwith. Heard finally by consent of both sides.

3. This writ petition challenges the legality and correctness of the order dated 02nd March, 2017 passed by the Additional Collector, Ahmednagar, whereby a direction has been issued to the petitioner that amount of Rs.3,50,836/- be deposited by the petitioner, which amount was not deposited by him within stipulated period of time and which was liable to be confiscated.

4. It is so happened that on 21st December, 2016, at village Gavhanewadi, Tq. Shrigonda, Dist. Ahmednagar, a public auction was held for sale of sand weighing 70 bras sand excavated from the riverbed. Alongwith other purchasers, this petitioner also took part in the public auction and his bid, which was the highest one, was accepted by the authorities for Rs.14,03,344/-. The petitioner was communicated accordingly and he was called upon to deposit within twenty-four hours of 20th December, 2016, 1/4th amount of the auction price, which came to Rs.3,50,836/-. So, the 1/4th amount was to be deposited by the petitioner before the closing of office hours of 21st December, 2016. The petitioner, accordingly started from Pune to Shrigonda for depositing the 1/4th

amount by vehicle, a Fortuner bearing no. Mh-12 JQ-3344. But on the way to Shrigonda, his vehicle met with an accident in which, the vehicle got damaged but the petitioner escaped unhurt. The petitioner thereafter did not continue his journey to Shrigonda by another vehicle or by adopting the alternate mode of transportation and accordingly the said 1/4th amount which is Rs.3,50,836/- was not deposited by him within the stipulated period of time. The petitioner made an application to the Additional Collector seeking extension of time, but, that was rejected by the Additional Collector and not only that, the Additional Collector directed him by order passed on 02nd March, 2017 to deposit this amount forthwith as it was to be confiscated to the State. Being aggrieved by this order, the petitioner before this Court filed the writ petition.

5. The first submission of learned Counsel for petitioner is that in same circumstances, the Division Bench of this Court had granted interim protection to the petitioner and therefore this Court should also grant some protection to the petitioner. In support, the petitioner has placed on record the copy of the order passed on 08th March, 2017 in Writ Petition No. 3080/2017 (Balaji Sand Suppliers Vs. State of Maharashtra and Others). According to learned A.G.P., facts of said writ petition are different and therefore no reliance can be placed upon it. I think learned

A.G.P. is right in his submission. In Writ Petitioner No. 3081/2017, the Division Bench of this Court has recorded the finding of fact that deposit was well within the time. In the instant case, it is admitted position that deposit was never made, therefore, no assistance could be sought from said order.

6. The second submission of learned Counsel for petitioner is that because of the accident to his Fortuner vehicle, the petitioner was prevented from depositing the amount. However, as rightly pointed out by the learned A.G.P., the facts noted in the panchanama dated 25th December, 2016 do not support such contention. This panchanama clearly states that the petitioner had emerged unhurt from this accident and therefore there was no reason for the petitioner to stop his onward journey towards Shrigonda. The petitioner could have very well availed service of some other vehicle for going to Shrigonda and deposit the amount well within the stipulated time. He did not do so and therefore I am of the view that the learned Additional Collector has rightly rejected the justification for not depositing the amount will within the time.

7. The third submission of the learned Counsel for petitioner is that no opportunity of hearing was granted to the petitioner. In fact,

there are admitted facts in this case, which clearly go against the petitioner and therefore, there was no reason for the Additional Collector to have granted any personal hearing to the petitioner and in this backdrop it was for him to consider the application filed by the petitioner in the light of the facts and circumstances brought on record, which he has done, and rightly so. Therefore, I do not see any merit in the submission of learned Counsel for petitioner.

8. There is also an issue raised by the learned Counsel for petitioner as raised in Writ Petition No. 11196 of 2015, order of which has been passed by this Court on 27th December, 2016 at Mumbai directing some adjustments to be made by the authorities from the bid amount already deposited with them. With due respect, I must say that this is not an issue involved in the present case and if the petitioner is desirous of getting any relief in this regard, he may approach the appropriate Bench.

9. In the result, I do not see any merit in this petition. Petition stands dismissed with costs. Rule is discharged.

(S.B. SHUKRE, J.)

SSD