

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6958 OF 2017
(Toshniwal Arts, Commerce and Science College, Sengaon,
Tq.Sengaon, District : Hingoli Vs. The State of Maharashtra and
another)
WITH
CIVIL APPLICATION NO.11359 OF 2017

Mr.R.N.Dhorde h/f Mr.R.L.Kute, Advocate for the petitioner.
Mr.N.T.Bhagat, AGP for State/respondent Nos. 2 and 3.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 04/09/2017

PER COURT :

1. Issue notice before admission in the writ petition to the respondents, returnable on 03/12/2017. Learned AGP waives service for both the respondents.

2. By the civil application, the petitioner has assailed a notice dated 28/08/2017 issued by the S.D.O. Hingoli seeking payment of Rs.7,49,100/- towards penalty for the purported illegal storage of 550 brass of sand or face criminal proceedings. The learned AGP has defended the notice.

3. The learned Senior Advocate points out from page No.89 of the petition paper book, which is a notice dated 07/02/2013 received by

the petitioner on 02/03/2013, wherein the Tahsildar, Sengaoon claims to have confiscated 170 brass of sand purportedly stored by the petitioner. Explanation is submitted by the petitioner on 03/03/2013. On 12/03/2013, the Tahsildar once again issues a notice which is at page No.94 of the petition paper book indicating that the sand is about 170 brass.

4. The petitioner had filed RCS No.40/2013 before the Trial Court with regard to the alleged seizure of 170 brass. The written statement filed by the State in the said suit dated April 2014 also mentions 170 brass of sand. The suit has been dismissed as untenable and the appeal has also been dismissed. Hence this petition.

5. It is pointed out by the learned Senior Advocate that a demand draft dated 01/09/2017 for an amount of Rs.7,49,000/- is being tendered to this Court. A copy of the said demand draft is taken on record and marked as "X" for identification. The petitioner shall tender the said demand draft to the Registry of this Court within four days and the said amount shall be invested with a Nationalized Bank initially for a period of 6 months and to be renewed thereafter if the petition is pending.

6. Considering the above, the civil application is allowed. The petitioner is permitted to amend the petition by adding paragraph Nos. 9-A, 9-B and 9-C. So also, the petitioner would add prayer clauses BB and CC. The prayer for adding the S.D.O. Hingoli as a respondent is refused. Until the next date of hearing in this matter, the impugned notice dated 28/08/2017 shall stand stayed on the condition that the amount set out in the notice is being deposited in this Court.

7. Parties may note that on the next date of hearing in this matter, this petition is likely to be heard finally at admission stage.

(Ravindra V.Ghuge, J.)