

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3934 OF 2016

Shri. Amit Dashrath Jagdale

..Petitioner

Versus

**The Additional Commissioner,
Pune Division, Pune and others**

..Respondents

Mr. A. D. Sale for the Petitioner.

Mrs. Kirti Kulkarni, AGP for the Respondent Nos.1 to 4.

CORAM : R. M. SAVANT, J.

DATE : 15th MARCH, 2017

PC.

1 The order dated 27.01.2016 passed by the Additional Commissioner, Pune Division, Pune rejecting the application for stay filed by the Petitioner is taken exception to by way of the above Petition. The said stay application has been filed by the Petitioner in a Revision Application filed by them against the order dated 05.09.2015 passed by the Additional Collector, Solapur in the Mines and Mineral Appeal No.32 of 2015. By the said order dated 05.09.2015 the Additional Collector has confirmed the order dated 17.06.2015 passed by the Tahsildar, Mangalwedha as also the order dated 17.07.2015 passed by the Sub Divisional Officer, Mangalwedha confirming the order dated 17.06.2015 passed by the Tahsildar. The order dated 17.06.2015 has been passed by the Tahsildar confiscating the truck of the Petitioner on the ground of

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illegal excavation of sand and further levying penalty and fine on the Petitioner total amounting to Rs.3,32,500/-. The Sub Divisional Officer as indicated above has confirmed the said order dated 17.06.2015 passed by the Tahsildar. The Appeal filed by the Petitioner was dismissed by the Additional Collector by the order dated 05.09.2015.

2 In an identical fact situation a Division Bench of this Court by order dated 04.03.2016 passed in Writ Petition No.2571 of 2016 had directed release of the vehicle involved in the said case which was a dumber on the Petitioner filing a bond and furnishing security with the Collector as postulated in Section 48 Sub Section 8 Clause 2. In so far as the demand of penalty is concerned, the statutory remedy of the Petitioners in the said case was kept open by the Division Bench. In the light of the order passed by the Division Bench of this Court in Writ Petition No.2571 of 2016 the following directions are issued :-

- I) The Collector, Solapur to direct the release of the truck by the Tahsildar, Mangalwedha, District Solapur on the Petitioners filing a bond and furnishing security in terms of Clause 2 of Sub Section 8 of Section 48 of the Maharashtra Land Revenue Code, 1966.

II) Since the Revision filed by the Petitioner is pending, the Petitioner to deposit an amount of Rs.46,800/- with the Tahsildar, Mangalwedha within two weeks from date. The said amount is referable to the five times penalty payable on the royalty per brass which is Rs.1200/- per brass which is Rs.39,000/- and the original royalty for 6.5 brass i.e. Rs.7,800/- which would make the total of Rs.46,800/-.

III) The balance amount is covered by the order passed by the Tahsildar dated 17.06.2015 would be subject to the result of the Revision. On the amount being deposited, there would be a stay to the order dated 05.09.2015 passed by the Additional Collector, Solapur. If the amount is not deposited, then the Authorities would be free to proceed to recover the amount in accordance with law.

3 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]