

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

WRIT PETITION NO.2290 OF 2016

Vishnu Dattatray Bondre : Petitioner.
Versus
The State of Maharashtra and ors. : Respondents.

Mr. Bhushan Walimbe for the Petitioner.
Mr. S D Rayrikar, AGP for the Respondent Nos.1 to 3.

CORAM : R. M. SAVANT, J.
DATE : 15th February 2017

P.C.

1 The order dated 08/12/2015 passed by the Respondent No.3 – The Tahasildar, Akkalkot, District Solapur confiscating the two trucks of the Petitioner on the ground of illegal excavation of sand and further levying penalty and fine on the Petitioner totally amounting to Rs.2,85,525/- for each of the trucks is taken exception to by filing an Appeal before the Sub Divisional Officer-II, Solapur. The Sub Divisional Officer has rejected the application for stay filed by the Petitioner by the impugned order purportedly passed on 18/12/2015.

2 The learned counsel appearing for the Petitioner Shri Walimbe draws this Court attention to the order dated 04/03/2016 passed by a Division Bench of this Court (A.S.Oka & R.D.Dhanuka, JJ) in Writ Petition No.2571 of 2016. The said order was passed in facts identical to the present case. The

Division Bench having regard to Clause 2 of Sub-section 8 of Section 48 of the Maharashtra Land Revenue Code has directed release of the dumper in the said case on the Petitioner filing a bond and furnishing security with the Collector as postulated in the said provision. In so far as the demand of penalty is concerned, the statutory remedy of the Petitioner under the Code was kept open by the Division Bench. In the light of the order passed by the Division Bench in the said Writ Petition No.2571 of 2016 the following directions are issued :-

A] The Collector, Solapur to direct the release of the trucks by the Tahasildar, Akkalkot, District Solapur on the Petitioner filing a bond and furnishing security in terms of Clause 2, of Sub-section 8 of Section 48 of the Maharashtra Land Revenue Code.

B] Since the Appeal filed by the Petitioner is pending, the Petitioner to deposit an amount of Rs.42,000/- with the Tahasildar, Akkalkot within two weeks from date. The said amount is referable to the 5 times penalty payable by the Petitioner on the royalty per brass and the original royalty i.e. Rs.7,000/- + Rs.35,000/- = Rs.42,000/-.

C] The balance amount payable as covered by the order passed by the Tahasildar, Akkalkot would be subject to the result of the Appeal.

D] With the aforesaid directions, the above Writ Petition is disposed of.

[R.M.SAVANT, J]