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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6794 OF 2015

Babu Chintu Shinde ...Petitioner
vs.
The State of Maharashtra
and others ...Respondents

Mr.Vikram Walawalkar a/w Sambhoji Kharatmol i/b
Suresh Sabrad for the Petitioner
Mr.Manish Pabale, AGP for the State

CORAM : A.S.OKA, &
A.K.MENON, JJ.
DATE : MARCH 31, 2017

ORAL JUDGMENT: (PER A.S.OKA,J.)

1 As narrow controversy is involved in this petition and pleadings are complete, the writ petition is forthwith taken up for final disposal.

2 Rule. The learned AGP waives service for the respondents.

3 Under the order dated 16th November 2011, the petitioner's bid was accepted and the petitioner was granted permission to excavate the sand from several spots in river Bhima. The petitioner was permitted to excavate sand up to 31st July 2012. The petitioner deposited entire amount of Rs.27,00,000/- on 21st November 2011.

4 On 5th September 2012, the petitioner made an

application to the Hon'ble the Minister of Revenue and Khar Lands Departments. It is stated in the said application that for the reasons beyond his control, the petitioner could excavate the quantity of 452 brass of sand out of sanctioned 3200 brass. Therefore, he applied for refund of a part of amount deposited by him.

5 It appears that on the basis of the said application, a report of the Collector was called for by the State Government. A report dated 30th October 2012 was submitted by the Tahsildar to the District Collector. The District Collector forwarded the report to the State Government on 21st December 2012. By order dated 10th February 2014, the State Government accepted the case made out by the petitioner. The State Government decided to permit pro rata refund of Rs.23,13,562/-. On the basis of the said order, the District Collector passed an order dated 16th January 2015 ordering refund of amount of Rs.23,13,562/-. A cheque was issued by the Tahsildar on 27th October 2015 for the said amount. The prayer in this petition under Article 226 of the Constitution of India is for directing the State to pay interest on the said amount of Rs.23,13,562/- from 5th September 2012 till 27th February 2015.

6 There is a reply filed by Rajendra Kshirsagar, the Deputy Secretary of the Revenue and Forest Department, Mantralaya, Mumbai. In the said reply, the Deputy Secretary has stated that the petitioner excavated 458 brass of sand up to the period ending

31st July 2012. It is contended that there is no policy to pay interest on the said amount. There is a separate reply filed by the Shri Bhanuchandra Sidram Kolpyak, the District Mining Officer, Solapur. It is contended that the Collector called upon the Sub Divisional Officer by a communication dated 2nd June 2014 to ascertain whether the petitioner could excavate quantity of only 458 brass of sand. On 15th December 2014, a report was submitted by the Sub Divisional Officer confirming the fact that the petitioner has excavated quantity of only 458 quantity brass of sand. The District Mining Officer thus contended that a verification was required to be made of the correctness of the fact that the petitioner could excavate quantity of only 458 brass of sand.

7 According to us, the verification ought to have been made within a reasonable time. In fact, the report submitted by the Collector on this aspect on 21st December 2012 was very much before the State Government when order dated 10th February 2014 was passed. In our view, the verification ought to have been made within a reasonable time of 2 to 3 months.

8 In the circumstances, the petitioner is entitled to interest on the aforesaid from 1st June 2014 till the date of payment of the amount. The rate of interest will be of 8% per annum.

9 Accordingly, we pass the following order:

- (I) We direct the respondents to pay interest to the petitioner on the amount of Rs.23,13,562/- at the rate of 8% per annum from 1st June 2014 to 27th February 2015. The interest amount shall be paid within a period of two months from today;
- (II) On the failure of the respondents to pay interest as aforesaid within a period of two months from today, the State will be liable to pay further interest on the said amount at the rate of 9% per annum from the date of this Judgment and order till the date of payment;
- (III) Rule is made partly absolute in above terms.

(A.K.MENON,J.)

(A.S.OKA,J.)