

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

**WRIT PETITION NO. 9564 OF 2016**

Sanjay Mahadev Sawant ... Petitioner.

V/s.

State of Maharashtra and Others. ... Respondents.

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Mr. Vikram N. Walawalkar, Advocate i/by Suresh M. Sabrad,  
Advocate for the Petitioner.

Mr. V. M. Mali, AGP for the State.

Mr. Chirag Dave, Advocate i/by Legasis Partners for  
Respondent No. 7.

Ms. Sharmila V. Deshmukh, Advocate for Respondent Nos. 10  
& 11.

Mr. Manoj Patil, Advocate for the Intervener – Yashwant M.  
Hindalekar.

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**CORAM : NARESH H. PATIL AND  
SMT. BHARATI H. DANGRE, JJ.**

**DATE : 03<sup>rd</sup> JULY, 2017**

**P.C. :**

1           This petition was filed on 4<sup>th</sup> August, 2010 in respect of excavation of sand which was done manually at Spot Nos. C-1, C-2 and C-4 in Kalawal Creek situated at Masure, Taluka Malvan, Dist. Sindhudurg. The learned counsel appearing for the petitioner submits that preliminary objection of the petitioner was that without auctioning the sand

plots, the State had allotted the work of excavation of the sand in favour of certain persons. After filing of the petition the State Government adopted method of auctioning of the plots and one such bid offered by the intervener - Yeshwant Mahadev Hindalekar was accepted. However, due to ad-interim order passed by this court dated 20.01.2017, excavation of sand at the said spots could not take place. The period of "auction spots" expires in the month of September, 2017.

2           An issue relating to grant of permission from the Maharashtra Coastal Zone Management Authority (MCZMA) was raised. On behalf of the State affidavits were filed indicating that for excavation of sand manually, permission from MCZMA was not required. According to the learned AGP, a Seven Member Committee was constituted by the Government of India, Ministry of Mines, and that necessary permission from the said Committee for excavation of sand was obtained by the State. The AGP has referred to the resolution dated 21.05.2015 in support of the contention that for manual excavation of sand permission from MCZMA is not required. As against this, the learned counsel appearing for the Respondents submits that even for manual excavation of sand permission from the MCZMA is necessary. The parties differ on this issue.

3 In an affidavit filed by Mr. Amol Ramesh Thorat, the District Mining Officer, Sindhudurg, dated 5<sup>th</sup> May, 2017, the deponent states on page 2 as under :

“I say that, accordingly the proposals for granting permission to excavate sand from plot no. C1,C2 & C4 before the Committee meeting held on 26.04.2017. The committee has given permission to four proposals for excavation of sand at Plot Nos. C1 & C4.

I say that, as per the GR of Revenue & Forest Department, Government of Maharashtra dated 21.05.2015, the excavation of sand in above said plot will be carried out by manual methods by coastal communities. Therefore, for excavation of Sand by manual method, it is not necessary to take permission of Maharashtra Coastal Zone Management Authority.

I further say that, as per the GR of Revenue & Forest Department, Government of Maharashtra dated 21.05.2015 under clause A2 (K) the permission of Maharashtra Coastal Zone Management Authority is required to obtain in a case of mechanical method of sand excavation.”

4 In view of the aforesaid submissions and the observations, we are of the view that the Principal Secretary of the Revenue & Forest Department, Government of Maharashtra

would look into the issue relating to the policy adopted by the State and if any further steps are required to be taken, the same may be taken in accordance with the law.

5           Leave to withdraw the petition is granted.

6           The writ petition is disposed of as withdrawn.

7           Registry to forward copy of this order to the State.

(SMT. BHARATI H. DANGRE,J.)

(NARESH H. PATIL,J.)

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