

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

WRIT PETITION NO.327 OF 2016

Shri. Hanmant Balaso Salunkhe and another ..Petitioners
Versus

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

Mr. A. D. Sale for the Petitioners.

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 16.12.2015 passed by the Additional Commissioner, Pune Division, Pune rejecting the application for stay filed by the Petitioners is taken exception to by way of the above Petition. The said stay application has been filed by the Petitioners 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 Petitioners on the ground of

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illegal excavation of sand and further levying penalty and fine on the Petitioners total amounting to Rs.3,07,200/-. 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 Petitioners 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 trucks 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 Petitioners is pending, the Petitioners to deposit an amount of Rs.43,200/- 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.36,000/- and the original royalty for six brass i.e. Rs.7,200/- which would make the total of Rs.43,200/-.

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]