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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3427 OF 2018

Dharti Minerals

...Petitioner

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr. Pralhad D. Paranjape for the Petitioner.
Mr. S. H. Kankal, AGP for the State.

CORAM : R.D. DHANUKA, J.
DATE : 27TH MARCH, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 9th August, 2017 passed by the learned Divisional Commissioner, Pune, in so far as the petitioner is directed to deposit certain amount levied under Section 256(2) of the Maharashtra Land Revenue Code, 1966.
2. It is submitted that the entire impugned order which is subject matter of the said proceeding which is pending before the learned Divisional Commissioner is without jurisdiction. The petitioner has good chances of succeeding in the said proceedings.
3. The second proviso in Section 256(2) of the Maharashtra Land Revenue Code, 1966 clearly provides that in exceptional cases

the appellate authority may after recording the reasons in writing suitably reduces such amount of deposit. A perusal of the impugned order indicates that the learned Divisional Commissioner has not recorded any reasons as to why he has not exercised such discretion for reduction of the amount of deposit under second proviso of Section 256(2).

4. In my view, considering the prima facie case of the petitioner in the facts of this case, it would be appropriate if the petitioner is directed to deposit a sum of Rs. 25,00,000/- within a period of four weeks from today as a deposit under the said provision. Impugned order dated 9th August, 2017 is partly modified. If the aforesaid amount is not deposited within the time prescribed, relief granted by this Court to stand vacated. If amount is deposited as directed aforesaid, the matter be heard on merits.

(R.D. DHANUKA, J.)