

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6768 OF 2019

1. Sonabai Dnyanu Aldar
Age – 55, Occu. Agriculturist
2. Prakash Dagadu Aldar
Age – 48, Occu. Agriculturist
All R/o. Udhanwadi, Tal. Sangola,
Dist. Solapur.

...Petitioners

Versus

1. The State of Maharashtra,
through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai.
2. The Collector, Solapur
3. The Tahsildar, Sangola, Dist. Solapur.
4. The Circle Officer, Udhanwadi,
Tal. Sangola, Dist. Solapur.

...Respondents

Mr. Y. B. Lengare, for the Petitioners.

Mr. S. B. Kalel, AGP for Respondent nos.1 to 4/State.

**CORAM: R. M. BORDE &
N. J. JAMADAR, JJ**
DATED: 9th JULY, 2019

Oral Judgment:- (Per : R. M. Borde, J.)

1. Rule. Rule made returnable forthwith and, with the consent of the counsels for the parties, heard finally.
2. The petitioners are objecting to the order passed by the Respondent directing attachment of the tractors bearing No. MH-45- AD-0795 and MH-45-F-0923, respectively. It is alleged that the petitioners were transporting minor mineral

(approximately one brass) i.e. *murum*, unauthorisedly. The attachment panchnama in the instant matter has been drawn by the Circle Inspector on 9th May, 2019. The Tahsildar, Sangola, after issuance of the notice to the petitioners, proceeded to pass an order within contemplation of Section 48(8)(1) of The Maharashtra Land Revenue Code, 1966 ("the Code"), directing recovery of royalty and penalty amount towards unauthorised excavation of the minor mineral amounting to Rs.10,950/-, in each matter. The Tahsildar has also directed the petitioners to deposit fine amount on account of unauthorised use of the vehicles amounting to Rs.1,00,000/-, in each matter. The petitioners contend that the action of seizure of the vehicles by the Circle Inspector, is illegal and violative of the provisions of Section 48(8)(1) of the Maharashtra Land Revenue Code. The petitioners contend that the authorisation to seize and confiscate the vehicles vest in the officer not below the rank of Tahsildar in view of Section 48(8)(1) of the Code, whereas in the instant matter both the tractors belonging to the petitioners have been attached under panchanama drawn by the Circle Inspector, an officer below the rank of Tahsildar. The petitioners thus contend that the action of seizure of the

vehicles is illegal and violative of the provisions of law and as such deserves to be quashed and set aside.

3. It is true that both the tractors have been seized by the officer below the rank of Tahsildar and, as such, action in that regard is illegal and deserves to be quashed. The action taken by the Respondents of seizure of the vehicles as well as the imposition of penalty of Rs.1,00,000/-, each, by the Tahsildar in exercise of the powers under the Code is bad in law and therefore deserves to be quashed. Both the petitioners, however, are liable to deposit the amount determined by the Tahsildar under the order issued on 14th May, 2019 towards unauthorised excavation of the minor minerals amounting to Rs.10,950/-, in each of the matter.

4. The petitioners shall deposit Rs.10,950/-, each, within one week from today. On deposit of amount as specified above by the petitioners, the respondents are directed to release both the tractors.

5. Rule is made absolute to the extent as specified above.

6. There shall be no order as to costs.

[N. J. JAMADAR, J.]

[R. M. BORDE, J.]