

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

WRIT PETITION NO.8831 OF 2018

Vithoba Maruti Ghadge	...	Petitioner
versus		
Tahsildar, Post Tala and Ors.	...	Respondents

Ms. Gauri Godse, for Petitioner.

Ms. N.M.Mehta, AGP, for Respondent Nos.1 to 4.

Mr. Kanshetti Annappa Mahadeo, Tahasildar, Tala, Raigad, present.

**CORAM: AKIL KURESHI &
 S.J. KATHAWALLA, JJ.**

DATE: 25th JUNE, 2019

P.C.:

1. The Petitioner's case is that the Respondent Nos.5 to 7 have illegally excavated sand from the Petitioner's land. It appears that Respondent No.7 is given the work of construction of road nearby the Petitioner's land. According to the Petitioner, the said Respondents has illegally excavated sand from the Petitioner's land. The Petitioner have made several representations to the authorities for initiating action against such erring Respondents in terms of the Mines and Minerals (Development and Regulation) Act, 1957 ("the Act" for short). However, no concrete action is taken by the government authorities according to the Petitioner.

2. Learned AGP appearing for the Official Respondents in the presence of the Tahasildar, Tala, Raigad, stated that an inquiry was carried out in connection with the

Petitioner's allegations. A Panchanama of the site area was drawn on 4th March, 2017. That the Petitioner's allegation of illegal mining were found to be correct. The competent authority has passed an order dated 18th October, 2017 levying royalty of Rs.87,164/- and penalty of Rs.1,01,164/-. The Respondent No.7 has also paid up such amounts.

3. Counsel for the Petitioner has submitted that the authorities have not properly examined the grievances of the Petitioner. She pointed out that Respondent Nos.5 to 7 have breached the provisions of sub-section (1-A) of Section 4 of the Act, which provides that no person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provisions of this Act and the rules made thereunder. She further pointed out that in terms of Section 21 of the Act, any breach of the said provision is a punishable offence. She also drew our attention to Section 22 of the said Act, as per which no Court would take cognizance of any offence punishable under the said Act, except upon complaint in writing made by a person authorized in this behalf by the Central or State Government.

4. In short, the grievance of the Petitioner is that the government authorities have not examined the requirement of filing the complaint against Respondent Nos.5 to 7 or any of them for the said alleged breach. These aspects have not come out very specifically in series of representations made by the Petitioner to the authorities. Let the Petitioner therefore, make a fresh representation within three weeks from today

bringing all facts to the notice of the competent authority. The competent authority shall examine such representation and take a decision whether a complaint under Section 22 of the Act is required to be filed against Respondent Nos.5 to 7 or any of them. The representation shall be disposed off expeditiously and in any case, within three months from the date of receipt thereof.

5. The Writ Petition is disposed of.

(S.J.KATHAWALLA, J.)

(AKIL KURESHI, J.)