

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4907 OF 2020

Gopichand Sambhaji More and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 4926 OF 2020**

Patil Construction Through Proprietor
Nitin Bansidharrao Fajge and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

**WITH
WRIT PETITION NO. 4923 OF 2020**

Swapnil Construction Through Proprietor
Govind Satwaji Ullewad and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri R. N. Dhorde, Senior Advocate i/by Shri V. R. Dhorde,
Advocate for Petitioners in all matters.
Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1 to 4 in all
matters.

**CORAM : S. V. GANGAPURWALA AND
R. G. AVACHAT, JJ.**

DATE : 20TH JULY, 2020.

FINAL ORDER :

. We have heard Mr. Dhorde, the learned senior advocate for petitioners and Mr. Karlekar, the learned Assistant Government Pleader for respondents/State in all matters.

2. The bone of contention of petitioners is that, the petitioners have purchased the assigned sand from auction purchaser, whereas the contention of respondents/State is that, the sand purchased by the petitioners from the auction purchaser is unassigned sand and secondly the sand is excavated by the auction purchaser from the river bed. The penal action is rightly initiated U/Sec. 48(8) of the Maharashtra Land Revenue Code.

3. It appears that, earlier some orders were passed by the authorities and subsequently the Collector has directed to auction the sand which according to the petitioners is purchased from the auction purchaser. The petitioners claim to be farmers. The Sub Divisional Officer, Dharmabad on 15th April, 2020 has recorded some factual matrix. The same factual matrix does not seem to have been taken into consideration by the Collector while resorting to action U/Sec. 48(8) of the M. L. R. Code and come to the conclusion in the meeting dated 14.05.2020.

4. It would be appropriate for the Collector to take the decision after considering the case put forth by the petitioners.

5. The petitioners may within seven (07) days from today file

applications with the Collector, Nanded bringing to his notice the factual matrix, which according to the petitioners exist. The Collector, Nanded shall consider the applications/representations of the petitioners that may be filed by petitioners along with the documents and then arrive at a conclusion.

6. In case, the petitioners file proceedings/applications within seven days before the Collector, Nanded as observed supra, then the Collector, Nanded shall not proceed with the auction of the sand, which the petitioners alleged to have purchased till he takes decision on the applications of the petitioners. The petitioners may represent their cases before the Collector, Nanded, which the Collector would take into consideration.

7. In the light of the above, the writ petitions are disposed of. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

bsb/July 20