

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

WRIT PETITION NO. 5072 OF 2022

Nanasaheb Baliram Gopalghare,
Age : 50 years, Occu. Business
R/o Kharda, Tal. Jamkhed
Dist. Ahmednagar

... **Petitioner**

Versus

1. The State of Maharashtra,
Through, Sub Divisional Officer,
Karjat Dist. Ahmednagar.

2. The Tahsildar, Jamkhed,
Dist. : Ahmednagar.

... **Respondents**

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Advocate for Petitioner : Mr. Undre V. S.
AGP for Respondents-State : Mr. K. N. Lokhande.

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**CORAM : R. D. DHANUKA, AND
S. G. MEHARE, JJ.**

DATE : 05.05.2022

ORAL JUDGMENT (PER R. D. DHANUKA, J.) :-

1. Rule. Learned AGP waives service of notice for respondents-State Authorities. Rule is made returnable forthwith and heard finally by the consent of the parties.

2. By this petition filed under Article 226 of the

Constitution of India, the petitioner seeks writ of certiorari for quashing and setting aside the Auction Notice dated 18.04.2022 issued by the Tahsildar, Jamkhed and further seeks an order by directing the Sub Divisional Officer to decide the appeal filed by the petitioners expeditiously.

3. It is not in dispute that against the order passed by the Tahsildar, the petitioner has already preferred an appeal before the Sub Divisional Officer along with condonation application and stay application which are pending. There is a delay in filing the said appeal on the part of the petitioner. In the meanwhile, the Tahsildar has issued an auction notice on 18.04.2022 calling upon the petitioner to pay an entire amount of Rs.3,76,65,000/- within fifteen (15) days from the date of said notice.

4. Learned counsel for the petitioner placed reliance on the judgment delivered by this Court in Writ Petition No.4459 of 2022 in case of Vinod Shankar Nawale Vs. The Sub Divisional Officer and another and would submit that similar order may be passed in this petition also.

5. Since the appeal filed by the petitioner is pending before

the Sub Divisional Officer along with application for condonation of delay and stay application, we direct the Sub Divisional Officer to dispose off all the three proceedings within four (4) weeks from the date of communication of this order. The Sub Divisional Officer shall first decide the application for condonation of delay and if the delay is condoned, the Authority shall decide the application for stay and also the appeal.

6. Till such decision is taken by the Sub Divisional Officer and for a period of two (2) weeks thereafter the Tahsildar shall not take any coercive steps pursuant to the impugned notice of auction dated 18.04.2022 annexed at Exh.I to the petition.

7. The petitioner shall not create any third party interest or encumber the said property which is the subject matter of the said notice for a period of eight (8) weeks from today.

8. Writ Petition is disposed off in the aforesaid terms. Rule is made absolute accordingly. No order as to costs.

9. Parties to act upon the authenticated copy of this order.

10. The petitioner shall not seek any unnecessary adjournment before the Sub Divisional Officer.

11. It is made clear that this Court has not expressed any view on the merits of the condonation application and stay application filed by the petitioner and also the Sub Divisional Officer shall not be influenced by the factum of this Court granting temporary stay against the Tahsildar from taking any coercive action from entering in the property of the petitioner. This Court has granted such protection only in view of the fact that the proceedings of the petitioner by way of appeal as well as condonation application and stay application are pending before the Sub Divisional Officer.

(S. G. MEHARE, J.)

(R. D. DHANUKA, J.)

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vmk/-