

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1 OF 2023

SAMADHAN DADASAHEB SURYAWANSHI

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Petitioner : Mr. Kharosekar A.B.

APP for Respondent/State : Smt. D. S. Jape

...

CORAM : KISHORE C. SANT, J.

DATE : 24th JANUARY 2023.

Per Court :

Heard the learned Advocate for the petitioner and learned APP for the State.

1. The petitioner had filed an application under Section 457 of the Code of Criminal Procedure (Cr.P.C.) in the Court of learned Judicial Magistrate First Class, Renapur, Dist. Latur for releasing his vehicle i.e. JCB- Poclain Machine. The learned Magistrate by order dated 13.04.2022 had allowed the application by putting condition in Clause No.3 of the said order. Clause No.3 reads below :

“3. It is hereby made clear that, this order shall not be in derogation to the powers of revenue authority to

take any legal action as per the provisions of Mines and Minerals Act or any other Act or Code.”

2. The submission of the learned Advocate for the petitioner is that when he went to police station for releasing of vehicle, it was not released in view of the Clause No.3 of the said order, which is reproduced above. It was told that the petitioner has to clear the dues that the vehicle can be released subject to action if any taken by the Tahasildar. He submits that as a matter of fact, no any action is taken by the Tahasildar and otherwise also the Tahasildar has independent powers to take action under the Maharashtra Land Revenue Code (for short, “MLRC”). For that reason, the vehicle was not released and kept under the custody of police.

3. The learned APP produced on record a copy of notice issued to the petitioner by P. I., Renapur Police Station, asking him to be present on 02.01.2023 for taking his vehicle in his custody. She thus submits that the police have in fact on their own have sent notice to release the vehicle. However from the police papers, it appears that by letter dated 31.12.2022, the Tahasildar had issued communication to P. I. informing that the petitioner has not cleared the dues of the Government

though action under Section 48(1), Clause No.7 of the MLRC is taken against him and therefore the vehicle did not release. It is clear that from the police papers, it is seen that the petitioner has time and again requested the police authorities to release the vehicle. Merely because of this condition only, the vehicle is not being released. It is made clear that in fact the Tahasildar and Revenue Authorities are free to take action by taking recourse and by using the authorities as per the MLRC.

4. As the sufficient powers are available to Tahasildar and the Revenue Authorities, they need not tell the police not to release the vehicle, when the Court has passed a specific order. Looking to this aspect, the police is directed to release the vehicle of the petitioner, of which description as given below, forthwith.

Description of the property	
A Poclain Machine	
Make	JCB
Model	2010
Machine Serial No.	PVNJS20CJO1-309296
Engine No.	62872763
Chasis No.	1309296

5. With this, the Writ Petition is disposed off.

[KISHORE C. SANT, J.]