

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

924 WRIT PETITION NO.5315 OF 2016

JANARDHAN BHAULAL SAPKALE

... Petitioner

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

... Respondents

...

Mr. P. S. Nagargoje h/f Mr. Patil Vijay B., Advocate for the Petitioner

Mr. S. B. Pulkundwar, AGP for the Respondents/State

...

**CORAM : NITIN W. SAMBRE &
S. G. CHAPALGAONKAR, JJ.**

DATE : 14.03.2023

PER COURT :

1. The petitioner, a successful auction purchaser of the sand ghat claimed that since the possession of the sand ghat was not handed over to him for a period 2006 to 2007, the auction money which was deposited is liable to be refunded. According to him, the petitioner continuously pursuing the matter not only with the respondent – Collector but also with the State Government and he has tried to draw support from a communication dated 30th January, 2008 issued by the State Government.

2. According to him, in the aforesaid background, it is necessary to direct the Collector/State Government to return the amount viz auction money to the petitioner which he has deposited towards the costs of the sand which he was never permitted to excavate or withdraw.

3. The learned Government Pleader would support the order impugned as according to him, it was for the petitioner's failure and the auction was not taken to its logical end as the petitioner has not taken possession of the sand ghat. Apart from above, he would claim that the return of the amount is time barred.

4. We have appreciated the submissions.

5. The fact remains that the petitioner submitted his bid for the auction of the sand ghat for a period 2006 and 2007 and allegedly paid the auction amount.

6. He has blamed the respondents for not permitting him to withdraw the sand from the ghats which were auctioned, as the further process of handing over of the sand ghat was not lawfully processed.

7. Be that as it may, the fact remains that the petitioner thereafter applied for extension to withdraw the sand from the auction ghat which was turned down by the Government.

8. If we perused the communication dated 30th January, 2008 issued by the State Government, the same is self explanatory as it categorically rejects the prayer of the petitioner for extension.

9. However, the State Government has called a report from the Collector as regards the return of the amount of auction money.

10. Such an event has occurred in 2008 and thereafter, the petitioner till the date of filing of the petition i.e. 2016 has not taken any steps in the matter for recovery of such amount.

11. As such, the claim made in the petition is time barred as the petition is preferred after an unexplained period, the delay of eight days that being so, no case for showing indulgence under Article 226 of the Constitution is made out. Hence, the writ petition is dismissed.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

Sameer