

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

974 CIVIL APPLICATION NO.13814 OF 2023

IN

WP/4396/2022 WITH WP/4396/2022

MAHENDRA SHIRISH PATIL

VERSUS

THE STATE OF MAHARASHTRA

THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Applicant:

Mr. Shrikrishna U Chaudhari

AGP for Respondent/State: Mr. K. B. Jadhavar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 09th NOVEMBER, 2023

PER COURT:

1. Heard.

2. Perused the impugned order dated 14.08.2021, passed by the Tahsildar. It is well settled in this court that the Tahsildar cannot impose any penalty for the wrongful use of the vehicle. It is only the Sub-Divisional Officer or the authorised officer, who has the power to impose penalty for the wrongful use of the vehicle. The excavator of the petitioner is seized and the total amount of valuation of the excavator, minor mineral is quantified at Rs.80,000/ and 5 times penalty is imposed on it,

total amount of recovery toward the royalty is Rs.4,00,000/- and other penalty were imposed.

3. Since, the Tahsildar is not entitled to impose the penalty at this stage we exclude the amount of penalty on the vehicle, so also, the penalty on the mineral is imposed 5 times. This court while issuing notice has permitted release of the vehicle on deposit of Rs.1,50,000/-.

4. On further deposit of Rs.50,000/- by the petitioner within one (01) week, the further recovery of the amount under the impugned orders are stayed.

5. However, on deposit of further amount of 50,000/- within one (01) week, the recovery in terms of the order of the Tahsildar dated 14.08.2021 and the subsequent order in appellate forum passed by the appellate authority on 24.01.2022 would remain stayed.

6. Auction of the petitioner's properties which may be conducted in pursuance of the recovery is also stayed.

7. The Sub-Divisional Officer is not prohibited in taking action for wrongful use of the vehicle notwithstanding that the stay order granted by this court today towards recovery. The Sub-Divisional Officer or the authorised officer is not prohibited in taking further action for wrongful use of the vehicle.

8. The learned AGP to inform to the concerned authority.

9. The civil application is disposed of.

10. List the petition on 04.12.2023.

[ARUN R. PEDNEKER, J.]

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