

Pdp

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14122 OF 2022

Pradip Kamlakar Mohite

.. Petitioner

Versus

The State of Maharashtra & Anr.

.. Respondents

Mr. Sachin Hande for petitioner.

Mrs. R. A. Salunkhe, AGP for State.

**CORAM: S. V. GANGAPURWALA, ACTING CJ. &
SANDEEP V. MARNE, J.**

DATE: APRIL 18, 2023

P.C.:

1. The petitioner had paid for the sand site. The petitioner was held to be the highest bidder for Rs. 57 lakhs. The petitioner was expected to deposit 1/4th amount on the same day and remaining amount within 15 days. The auction was conducted on or about 16th November, 2011. The petitioner deposited 1/4th amount on 17th November, 2011 and 25th November, 2011 and remaining 3/4th amount on 30th November, 2011. Though the 1/4th amount was deposited belatedly, entire amount was deposited within 15 days. The petitioner was thereafter allotted the sand spot for excavation. The petitioner could not excavate the entire sand. The auction was for about 8000 brass of sand. However, the petitioner could excavate 577 brass of sand and then the objections were raised. The petitioner could not excavate the remaining sand of 7423 brass.

2. The Additional Collector passed an order recommending refund of Rs.49,49,737/- to the petitioner. The Secretary, Revenue and Forest Department directed deduction of 1/4th amount i.e., Rs. 14,25,000/-. It was directed by the Secretary that the after deducting Rs.14,25,000/-, remaining amount of Rs.35,45,706/- be paid to the petitioner. The petitioner is paid the amount of Rs.35,45,706/-.

3. The present writ petition is filed challenging the order of deduction of 1/4th amount of Rs.14,25,000/-.

4. According to the learned AGP and the order impugned, the 1/4th amount of Rs.14,25,000/- is deducted as the petitioner did not deposit 1/4th amount on the very same day of the auction. Reliance is placed upon Clauses B(2) and B(3) of the Government Resolution dated 25th October, 2010.

5. Clauses B(2) and B(3) of the GR dated 25th October, 2010 would not enure to the benefit of the respondents. It states that 1/4th amount has to be deposited on the same day and remaining 3/4th amount has to be deposited within 15 days. It further states that after the stipulated period, the 1/4th amount should not be accepted. The said Clauses further state that if within 15 days 75% of the amount is not deposited, then the 1/4th amount should be forfeited.

6. The said scheme is prior to delivery of the possession of the sand site. In the present case, the petitioner was handed over the sand site. The entire payment was accepted by the respondents. The petitioner also excavated 577 brass of sand before the objections were raised. The authority has come to the conclusion that the petitioner could not excavate 7423 brass of sand and that the petitioner is entitled for refund of Rs.49,49,737/-. However, only on the ground that 1/4th

amount was not deposited within time, direction is given to reduce the said amount. The same is not in consonance with the scheme.

7. In light of the above, the impugned order directing deduction of Rs.14,25,000/- is quashed and set aside. The respondents shall make payment to the petitioner of Rs.14,25,000/- within four months from today.

8. The writ petition is disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)