

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

WRIT PETITION NO. 915 OF 2012

Mahavir Raods And Infrastructure
Private Ltd. and Ors.Petitioners

V/s.

The State of Maharashtra
Through Principal Secretary
Revenue And Forest Dept and Ors. ...Respondents

**ALONGWITH
WRIT PETITION NO. 689 OF 2021**

Anand Constuwell Pvt. Ltd.Petitioner

V/s.

The State of Maharashtra
Through Urban Development Secretary
Urban Development Department and Ors. ...Respondents

**ALONGWITH
WRIT PETITION NO. 2072 OF 2020**

R.B. KrishnaniPetitioner

V/s.

The City Engineer,
Thane Municipal Corporation and Ors. ...Respondents

Mr. Siddhesh Pilankar i/b Dr. Uday P Warunjikar for Petitioner.
Mr. A.I. Patel, Addl. G.P. for State/Respondent Nos. 1 to 4.
Mr. Pratham Sawant i/b Mr. Mandar Limaye for Respondent No.5.
Mr. Rajesh D. Bindra for Respondent No.6.

**CORAM : K.R. SHRIRAM &
FIRDOSH P. POONIWALLA, JJ.
DATED : 15th JUNE 2023**

P.C. :

1. Petitioner is impugning a notice dated 13th October 2011 issued
by the Circle Officer and order dated 29th November 2011 passed by the

Tehsildar by which the State had invoked power under Section 48(7) of the Maharashtra Land Revenue Code, 1966.

2. Under the impugned notice read with impugned order the petitioner was directed to deposit royalty for about 24593 brass of soil excavated during laying and commissioning of gravity sewers, the work allotted to petitioner. The work was carried out by petitioner some time in 2011.

3. There were similar matters before this court and various orders have been passed, one of which is in Writ Petition No. 12873 of 2022 dated 12th January 2023. Having considered the petition, we also will follow the same course as adopted in the said order. It is the case of the State that if the mining and mineral excavated is used for commercial purpose, a royalty has to be charged. From the Show Cause Notice annexed to the petition, it is not clear how respondent has arrived at the figure of 24593 brass as excavated and the basis on which they alleged that these have been sold for commercial purpose.

4. Therefore, we dispose the petition with the following directions :

- (a) The Circle Officer, Taluka – Thane, Zilla – Thane shall issue a supplementary Show Cause Notice giving details as to how they have arrived at the figure on

which royalty is claimed and also why they claim that the mines/minerals excavated have been disposed for commercial purpose. The supplementary Show Cause Notice to be issued within four weeks. Copies of the documents properly indexed and paginated relied upon in the supplementary Show Cause Notice shall also be provided.

(b) Within four weeks of communication of the Show Cause Notice, petitioner shall file a reply/ additional reply.

(c) A detailed reasoned order shall be passed dealing with all the submissions of petitioner within six weeks of receiving the reply.

(d) Before any order is passed, petitioner shall be given a personal hearing, notice whereof shall be communicated atleast 5 working days in advance and should petitioner wish to file written submissions recording what transcribed during the personal hearing, petitioner may do so within three working days of the personal hearing.

5. Dr. Warunjikar stated that many of the documents that will be required to effectively show cause would be available with Thane Municipal

Corporation. Petitioner may address a communication to the Municipal Commissioner, Thane Municipal Corporation who shall, within two weeks of receiving a request, provide readable copies of all documents properly indexed and paginated regarding the project pertaining to petitioner.

6. The impugned order dated 29th November 2011 is hereby quashed and set aside.

7. Dr. Warunjikar states that bills of petitioner have not been paid in view of this pending Show Cause Notice. Before issuing a supplementary Show Cause Notice if the Government is able to discern the exact quantity of excavated mines and minerals which has been commercially exploited by petitioner, the Government/Thane Municipal Corporation as the case may be will then pay petitioners bills to the extent it is unable to discern the quantity sold for commercial purpose.

8. We clarify that we have not made any observations on the merits of the matter.

9. Petition disposed.

10. We are informed by Mr. Pilankar that WP No. 689 of 2021 and WP No. 2072 of 2020 have already been disposed and are wrongly listed today.

(FIRDOSH P. POONIWALLA, J.)

(K.R. SHRIRAM, J.)