

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9149 OF 2022

Yogesh Sudhakar Telawne & Anr.

...Petitioners

Versus

State of Maharashtra

Through Revenue & Foresh Dept. & Anr.

...Respondents

Ms. Aditi Naikare for the Petitioners.

Ms. K.N.Solunke, AGP for the State.

Mr. Vasant Chaudhari, Naib Tehsildar, Shahapur present in Court,

CORAM: K. R. SHRIRAM &
NEELA GOKHALE, JJ.
DATED: 12th October 2023

PC:-

1. Petitioner is impugning an order dated 24th June 2022 passed by Respondent No.2 under Section 48(7) and (8) of the Maharashtra Land Revenue Code, 1966. When we consider the impugned order, we find no reasons have been given. The impugned order does not deal with the submissions of Petitioner that Petitioner had taken permission for construction for industrial purpose from the appropriate authorities. In the impugned order, it is not stated anywhere under what provision Petitioner is required to take prior permission from the office of Respondent No.2 before commencing the work of digging a plot for the purpose of development or setting up of an industrial shed or why any prior intimation has to be given or why any royalty is payable. The impugned order also does not give any details as to how Respondent No.2 has concluded that 2722.29 Shivgan

brass earth and 116.84 brass stones have been excavated and how they have arrived at rates mentioned in the impugned order.

2. Petitioner has also relied upon a judgment. In the affidavit in reply, an attempt is made to justify the impugned order. We are unable to accept the so-called justification because that is not borne out from the impugned order.

3. Therefore, we hereby quash and set aside the impugned order dated 24th June 2022 and remand the matter for *de-novo* consideration. Matter shall be heard afresh by anyone other than Neelima Suryawanshi, who has passed the impugned order. We say this because Ms. Naikare states that the impugned order even in Writ Petition No.197 of 2022, which is relied upon in the Petition was passed by the same officer on the same grounds. Despite being aware of the judgment of this Court in Writ Petition No.197 of 2022, the said Neelima Suryawanshi has passed the impugned order. Therefore, the Sub-Divisional Officer shall forthwith assign the matter to another officer of the same rank of Tehsildar to dispose show-cause notice dated 13th June 2022. Should Petitioner wish to file further reply, the same to be filed within three weeks. The officer to whom the matter will be assigned, shall dispose the show-cause notice within six weeks of receiving the reply but before that shall give a personal hearing, notice whereof shall be given at-least five working days in advance.

Order to be passed shall be a reasoned order dealing with all the submissions of Petitioner.

4 Petition disposed.

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

(NEELA GOKHALE, J.)

(K. R. SHRIRAM, J.)