

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

WRIT PETITION NO.6951 OF 2010

Shri. Sandeep Sambhaji Pharate

... Petitioner

V/s.

The State of Maharashtra through
its Revenue and Forest Department And Ors.

... Respondents

Mr. Amay Sawant i/b. Mr. Suresh M. Sabrad for Petitioner.

Mr. A. I. Patel, Addl. G. P. a/w. Ms. K. N. Solunke, AGP for State-
Respondent Nos.1 to 4.

CORAM : K. R. SHRIRAM &

FIRDOSH P. POONIWALLA, JJ.

DATE : 22nd JUNE 2023.

P. C.:-

1. Prayer in the Petition is to quash and set aside the ex-parte order dated 13th June 2008, passed by Respondent No.3, the Additional Collector, Pune and an order dated 16th July, 2010 passed by Respondent No.1 which is the Revenue and Forest Department, Government of Maharashtra and allow the application dated 10th March 2010 that Petitioner filed before Tahsildar, Pune.

2. Though Petitioner has impugned an order dated 13th June 2008, the said order is not annexed to the Petition. Counsel for Petitioner states that Petitioner was never provided with the order but has no

explanation to offer as to why for 15 years they did not write to Respondents to provide a copy of the said order and in any case why they did not move this Court to direct Respondents to provide a copy of the said order.

3. No reply has been filed though copy of the Petition has been served and Petition was listed before the Court as far back on 31st August 2010, 9th September 2010 and on 31st August 2021 and even recently on 8th June 2023, when Respondent was represented. As noted in many other orders, it reflects very poorly on the Revenue and Forest Department, Government of Maharashtra. It is rather unfortunate that no reply is being filed and proper instructions are not being given to the pleaders.

4. Be that as it may, we have perused and considered the Petition. Petitioner had participated in an auction dated 18th February 2007 and offered an amount of Rs. 26,11,100/- in respect of Site No.4 at Mouji Khanota, Tq. Daund, Dist. Pune. Though the Petition is silent as to what was auctioned, Mr. Sawant states that the auction was for right to excavate sand. Mr. Sawant says that pursuant to the tender conditions, Petitioner was to deposit 1/4th of the amount by 18th

December 2007 and the balance 3/4th by 1st January 2008. Petitioner in compliance with the tender conditions deposited Rs.6,52,775/- which is 25% of Rs.26,11,100/- but as regards the remaining 75%, Petitioner was not able to deposit the amount within the prescribed date i.e. 1st January 2008.

5. Petitioner therefore, vide a letter dated 1st January 2008, applied to Respondent No.4, i.e., Tahsildar, requesting for eight days time to make payment of the said 75% amount. On 16th January 2008, it is stated in the Petition that Petitioner made an application showing his readiness and willingness to make the balance payment of 3/4th amount. This was followed by another application dated 29th January 2008. On 8th February 2008, Petitioner received a letter dated 2nd February 2008, calling upon Petitioner to show cause as to why the 1/4th amount deposited by him should not be forfeited. Petitioner replied by a letter dated 15th February 2008, in which it was also stated that though Petitioner had sought extension to deposit the amount, Respondent's office did not accept the balance deposit because the time to deposit had expired.

6. Petitioner thereafter, has made few representations and finally filed this Petition on or about 31st August, 2010.

7. We have also noted that there is a letter dated 16th July 2010, annexed to the Petition which is impugned in the Petition whereby Respondent No.1 has informed Respondent No.4 to communicate to Petitioner that the time to deposit balance 75% has not been extended.

8. It is averred in the Petition at paragraph no.18 that Petitioner had learnt that Respondent No.1 by an order dated 13th June 2008 has forfeited the 1/4th amount deposited by Petitioner. Petitioner also states that he never received a copy of the order.

9. The issue in the Petition is a pure contractual dispute between the State of Maharashtra and Petitioner. Therefore, we are not inclined to exercise our jurisdiction under Article 226 of the Constitution of India. Petitioner may take such steps as advised in accordance with law.

10. Petition dismissed.

(FIRDOSH P. POONIWALLA., J.)

(K. R. SHRIRAM, J.)