

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3027 OF 2022

Shiv Samruddhi Enterprises

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

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Mr. Suresh Sabrad *for the Petitioner.*

Mr. S. B. Kalel, AGP *for the Respondent Nos. 1 to 6.*

CORAM : B. P. COLABAWALLA &

M. M. SATHAYE, JJ.

DATE : NOVEMBER 10, 2023

P. C.

1. The praecipe is moved by the learned Advocate appearing for the Petitioner for speaking to the minutes of order dated 8th November, 2023. We are informed that in the appearance column, the name “Ms. Shivangi Choure” ought to be substituted with the name “Mr. Shivaji Choure”.

2. We, therefore direct that in the order dated 2nd November, 2023, in the appearance column, the name “**Ms. Shivangi Choure**” shall be substituted with the name “**Mr. Shivaji Choure**”.

3. No other correction is sought. The correction shall be carried out in the original order as well as in the copy uploaded on the server.

4. The praecipe for speaking to the minutes is accordingly disposed of.

5. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M. M. SATHAYE, J.] [B. P. COLABAWALLA, J.]

For the sake of convenience, corrected order reads thus:-

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

WRIT PETITION NO. 3027 OF 2022

Shiv Samruddhi Enterprises

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr. Suresh Sabrad a/w Vikram Walawalkar and Amey Sawant,

Advocates for the Petitioner.

Mr. S. B. Kalel, AGP for the Respondent Nos. 1 to 6.

Mr. Dhananjay Nikam, Deputy Secretary, Revenue & Forest Department, Mantralaya.

Mr. Shivaji Choure, Under Secretary, Revenue & Forest Department, Mantralaya.

**CORAM : B. P. COLABAWALLA &
M. M. SATHAYE, JJ.
DATE : NOVEMBER 08, 2023**

P. C.

1. The only prayer in the above Writ Petition is for the refund of an amount of Rs. 1,27,18,418/-. According to the Petitioner this amount was deposited in an auction held regarding a sand mining license or lease. This deposit was made on 18th January, 2017. According to the Petitioner he was not able to lift the entire quota of sand as the access road was blocked by the Forest Department. The claim is therefore for a refund of the amount attributable to the quantity of sand that could not be excavated. There is also a claim for interest at the rate of 12% p.a. from 18th January, 2017 as the Petitioner was restrained from excavating the sand from 17th January, 2017. In this Writ Petition, initially, an order was passed on 20th March, 2023, wherein this Court

had expected a response from the State Government within a reasonable time.

2. Today when the matter is called out, the learned AGP, on instructions, has stated that the Government does not accept the figure of Rs. 1,27,18,418/- as the correct figure that is due and payable to the Petitioner for the sand that could not be excavated. He submitted that the correct figure would be calculated by the Government and the same would be paid over to the Petitioner within a period of two months from today. We accept the said statement as an undertaking given to the Court.

3. The only issue that now remains in this Writ Petition is on the payment of interest. In this regard, Mr. Sabrad, the learned Counsel appearing for the Petitioner, brought to our attention an order passed by this Court in the case of Mayuresh Enterprises Vs. State of Maharashtra & Others [Writ Petition No. 2395 of 2023 decided on 28th March, 2023]. The learned Counsel appearing for the Petitioner submitted that this Court in an almost identical situation, has in fact directed the State to pay interest at the rate of 9% p.a.

4. We have perused the order passed by this Court in Writ Petition No. 2395 of 2023. This Court, after relying upon earlier orders passed by it, found that there was no excuse for the delay on the part of refunding the amount to the Petitioner. The Court therefore ordered that the Petitioner in that case would be entitled to interest at the rate of 9% p.a. which was not found to be unreasonable. We have no hesitation in following the said order and passing the same directions that the amount determined by the Government, and which would be refundable to the Petitioner, shall also carry interest @ 9% p.a. from 18th January, 2017 till payment.

5. The above Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

6. Though we have disposed of the above Writ Petition, we place it on board for reporting compliance on 10th January, 2024.

7. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M. M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]