



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3356/2020

M/S Kavish Enterprises, A Proprietary Concern, Thr. Proprietor, Sukhdev
Bharatram Hattimare

Vs

The State Of Maharashtra, Thr. Secretary, Revenue And Forest Dept. Mumbai
And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.M. Pande, counsel for petitioner.

Ms. T.H. Khan, AGP for respondent Nos. 1 to 4.

CORAM: AVINASH G. GHAROTE &
URMILA JOSHI-PHALKE, JJ

DATED : 29/08/2023.

1. Heard.
2. Mr. R.M. Pande, learned counsel for the petitioner seeks for quashing of the communication dated 6.11.2020 (Page-39), which indicates that the action in terms of condition No.9 of the renewed license dated 2.9.2020 would be taken. Upon instructions, he submits that no stock of sand was found on the land of Gut no. 767/1.
3. Mr. R.M. Pande, learned counsel for the petitioner submits, that the petitioner was granted a license to store the sand and then to sell it, in pursuance to which the sand was stored on Gut no. 767/1 admeasuring 0.30 H.R out of the entire land of 2.04 HR. However, on an incorrect finding, that

there was no such sand stored, the impugned communication has been issued.

4. The learned AGP supports the Panchanama, which indicates that there is no sand stored on Gut no. 767/1.

5. It is not in dispute that a license to sell sand stored on the land of Gut No. 767/1 was granted to the petitioner, and has subsequently been renewed, in pursuance to the order of this Court in Writ Petition No. 1966/2020 dated 28.8.2020 (Page-32). It is, however, material to note that as per the Spot Panchanama, the authorities have not found any sand stored on the land of Gut No. 767/1, in fact, they have found sand stored on the land of Gut. No.765.

6. Mr. R.M.Pande, learned counsel for the petitioner contends that the sand stored on Gut No. 765, is in fact, stored on Gut No. 767/1, and therefore, the petitioner be granted permission to lift the same and sell it by directing the respondents to issue transit pass.

7. In view of the admitted position, that a license to store and sell the sand was granted to the petitioner in respect of land admeasuring 0.30 HR, out of the land gut. No.761/1, and the said land now upon instructions has been found bereft of any

sand, the only conclusion which can be drawn is that the petitioner must have disposed of it otherwise. The attempt to equate the sand stored on Gut No. 765 with Gut No. 767/1, is clearly fallacious, as there is no such plea ever raised either in the earlier round of litigation or even this petition. In fact, in para-9 of the petition, it has been specifically averred that no sand stock is there on field Gut No. 765.

8. The petitioner has through out not claimed that the land of Gut no. 765 is actually the land which is the subject matter of the license.

9. In that view of the matter, we are not inclined to interfere in the instant petition as the same has no merit. Accordingly, the petition is **dismissed**.

JUDGE

JUDGE