



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2339 OF 2024

Amjad Khan Gulam Mahemood Khan Pathan .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Mr. Ashok P. Gaikwad, Advocate for the Petitioner.
Mr. S. K. Shirse, AGP for Respondent Nos. 1 to 6.

**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 29th FEBRUARY, 2024.

PER COURT :-

. The present petition has been filed for alternative reliefs. The petitioner had participated in auction conducted by respondents on 21.08.2019 wherein, the trolley of the tractor bearing No. MH-26-K-5280 seized in a criminal matter was sold in public auction. The petitioner was the highest bidder. He has deposited in all amount of Rs. 87,000/- through challan. Thereafter, by order dated 07.09.2019 the respondent No. 4 had directed respondent No. 6 to handover the possession of the trolley to the petitioner. However, the respondent No. 6 denied by stating that the said trolley is the subject matter in Criminal Writ Petition No. 1012/2019 before this Court. It was then told that, the respondent No. 6 was directed by this Court to release the

tractor with trolley. In view of those directions the respondent No. 6 was duty bound to hand over the said trolley to the writ petitioner in the said writ petition. Thereafter, it appears that the respondent No. 4 by order dated 20.04.2020 directed the refund of amount of Rs. 82,000/-. Thereafter, there was communication between the District Treasury Officer and the Tahsildar, but ultimately the petitioner has not yet received the said amount.

2. Heard learned advocate for the petitioner and learned A.G.P for respondents.

3. The learned A.G.P has waived notice for all the respondents.

4. The facts are clear in this case. It appears that, the Tahsildar had put the trolley to auction which was seized in a matter and the said auction was taken by the petitioner as the highest bidder. It was for amount of Rs. 87,000/-. He deposited the amount as directed by the respondents. However, in view of the order in Criminal Writ Petition No. 1012/2019 which was filed by the original owner of the tractor and trolley, this Court allowed the writ petition and directed that the vehicle should be returned to the petitioner therein. In view of this situation, the respondent No. 4 has already passed the order on 20.04.2020 to refund the amount which was deposited by the petitioner, but it

appears that, concurring steps have not been taken. The respondents are not justified in keeping the amount of the petitioner with them in view of the said order dated 20.04.2020. In fact, the petitioner should also receive the interest on the said amount of Rs. 87,000/- though in the order dated 20.04.2020 amount of Rs. 82,000/- was directed to be returned. It appears that, the Tahsildar had missed amount of Rs. 5,000/- deposited as earnest in view of the term of the tender.

5. For the aforesaid reason, we pass following order.

ORDER

(I) The writ petition stands partly allowed.

(II) The respondent Nos. 1 to 6 are directed to refund the entire amount of Rs. 87,000/- together with interest at the rate of 6% per annum from 04.09.2019 when the petitioner deposited the amount till its actual realization.

(III) The respondents to take steps to refund the said amount within a period of one month.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

PS.B.