



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 WRIT PETITION NO. 7763 OF 2024

VITHAL BAPURAO KUTE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

AND
56 WRIT PETITION NO. 7788 OF 2024

SHAHAJIRAO GANPATRAO TAMKE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

.....
Advocate for the Petitioner/s : Mr. Mahesh P. Kale
AGP for Respondents/State : Mr. R.K. Ingole & Ms. Neha Kamble
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CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 31st July, 2024

PC. :-

1. In the first Petition, the Petitioner has put-forth prayer clause-A and B, as under:

“A) By issuing writ of mandamus or any other appropriate writ or order or directions in the like nature, the respondents may kindly be direct to pay the petitioner, his deducted royalty amount of Rs.2,56,787/- with interest of 9% since deducted in 2006 till realization of amount.

B) By issuing writ of mandamus or any other appropriate writ or order or directions in the like nature, the respondents may direct, to decide representation of petitioner dated 27.03.2023, 15.01.2024 and 26.02.2024. Exhibit "H" Colly. within four weeks.”

2. In the second Petition, the Petitioner has put-forth prayer clause-A and B, as under:

“A) By issuing writ of mandamus or any other appropriate writ or order or directions in the like nature, the respondents may kindly be direct to pay the petitioner, his deducted royalty amount of Rs.121389/- with interest of 9% since deducted in 2006 till realization of amount.

B) By issuing writ of mandamus or any other appropriate writ or order or directions in the like nature, the respondents may direct, to take action to pay deducted royalty amount of Rs.121389/- within four weeks.”

3. We have heard the learned advocates for the respective sides. It is beyond debate that the Petitioners claim unpaid amounts or deducted amounts towards royalty from the Respondent-Authorities. The issue dates back to the works done in 2001-2003 and the deduction on royalty, in 2006. The contention is that the Petitioners are consistently pursuing the Respondents.

4. The Hon’ble Supreme Court has observed in several orders that the High Court cannot act as a recovery agent. It is also beyond debate that the Petitioners have waited for almost 18 years and a recovery suit is time barred. Because the suit is time barred, apparently the Petitioners are before this Court to revive a stale issue. The Hon’ble Supreme Court has observed in **Assistant Commissioner (CT) LTU, Kakinada & Ors. V/s. M/s. Glaxo Smith Kline Consumer Health Care Limited; (2020) 19 SCC 681**, that if the limitation period statutorily provided, is over, neither the Supreme Court can condone the

delay under Article 142, nor can it be done by the High Court under Article 226.

5. We called upon the Respondents to state as to whether the amount claimed by the Petitioners is undisputed and whether no disputed questions are involved. The learned AGP is instructed to say that the Respondents do not concede to the claims of the Petitioner.

6. In view of the above, we would not entertain both these Petitions. **The Writ Petitions are, therefore, dismissed.**

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]