



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

8 WRIT PETITION NO. 11010 OF 2023

BHARAT PANDHARINATH HARER AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY
AND OTHERS

...
Advocate for the Petitioners : Mr. Tarde Sambhaji B.
AGP for Respondents-State : Mrs. R. R. Tandale.
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CORAM : S. G. MEHARE, J.
DATE : 08.01.2024

PER COURT :-

1. Heard the learned counsel for the petitioners and the learned AGP for the respondents-State.
2. Learned AGP has raised the objection that alternative remedy is available under the Maharashtra Land Revenue Code itself.
3. Learned counsel for the petitioners has vehemently argued that since the earth/*murum* was excavated from his own field for levelling the field, no royalty or penalty would be imposed. He has made the novelty argument that the *murum* lying on the spot was not transported. Hence, there is no contravention of the Mines and Minerals Act and Rules. He

would submit that in such a case, no penalty would be imposed.

4. To bolster his argument, he relied on the case of *Promoters and Builders Association of Pune Vs. The State of Maharashtra and others ; 2015 (2) AIR Bom.R 50. Paranjape Schemes (Construction) Ltd. Vs. The State of Maharashtra and others ; 2022 (1) BCR 560*. In both the cases, the petitioners were constructing the buildings. He also relied upon the second proviso to Rule 2 of the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013. Considering the nature of the work done, the ratio laid down in the cases supra are not helpful to the petitioners. There is substance in the submissions of the learned AGP that efficacious/alternate remedy is available against the impugned order.

5. Hence, writ petition stands dismissed with a liberty to the petitioners to approach the proper forum.

(S. G. MEHARE, J.)

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vmk/-