IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9654 OF 2024

GANESH S/O. RAOSAHEB JADHAV ..PETITIONER
VS.
THE STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Adv. Anshuman Deshmukh for petitioner.

Mr. N. C. Walimbe, Addl. GP a/w. Ms. Tanu N. Bhatia, AGP for respondent – State.

CORAM : A. S. CHANDURKAR & RAJESH S. PATIL, JJ

DATE : 9th OCTOBER 2024.

P.C. :

1. Mentioned out of turn.

2. The petitioner has challenged the notice of penalty dated 29th May 2024 issued by the Sub-Divisional Officer, Niphad, wherein it has been stated that on 4th May 2024, the vehicle owned by the petitioner was found transporting five brass Murum in an unauthorised manner. Action was, therefore, sought to be taken under Section 48 (7) (8) of the Maharashtra Land Revenue Code, 1966 (for short ‘the Code’). Penalty of Rs.13 lakhs was accordingly imposed.

3. According to the learned counsel for the petitioner, he had purchased the aforesaid vehicle on 5th September 2023 while the amount of penalty was imposed on the basis of a bond executed by the earlier owner on 12th February 2016. Relying upon the decision in Writ Petition No.11326 of 2023 (*Dnyaneshwar Santosh Salunkhe @ Patharvat vs. The State of Maharashtra & others*), he submitted that the impugned notice be set aside and vehicle be returned to the petitioner.

4. Having heard the learned counsel for the petitioner and having perused the material on record, we find that according to the impugned notice, the Murum was being transported on 4th May 2024 which is after the petitioner purchased the said vehicle on 5th September 2023. We do not find any indication in the impugned notice that only on the basis of the bond submitted by the previous owner the fine has been imposed.

5. In our view, factual adjudication would be necessary for considering the petitioner's contentions. The petitioner can therefore invoke the statutory remedy by approaching the Revenue Authorities under Section 247 of the Code. He can also rely upon the ratio of the decision in *Dnyaneshwar Santosh Salunkhe @ Patharvat* (supra) before the Revenue Authorities.

6. In that view of the matter, with liberty to the petitioner to avail such remedy with further liberty to seek release of the vehicle in accordance with law, the Writ Petition is disposed of as not entertained.

7. All points raised are kept open.

[RAJESH S. PATIL, J.] **[A.S. CHANDURKAR, J.]**