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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.4331 OF 2025
AND
WRIT PETITION NO.4332 OF 2025**

Amol Namdeo Kedar

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondents

Mr. Shailesh Chavan a/w. Mr. Ganesh Sawant, Mr. Sachin Pawar, Mr. Hrishikesh Avhad, Advocates for the Petitioner in both Petitions.

Mrs. Reena A. Salunkhe, Assistant Government Pleader for the Respondent Nos. 1 to 4 in WP/4331/2025.

Mrs. Ashwini A. Purav, Assistant Government Pleader for the Respondent Nos.1 to 4 in WP/4332/2025.

**CORAM : A.S. CHANDURKAR &
M.M. SATHAYE, JJ**

DATE : 4th APRIL 2025.

P.C. :

1. The draft amendment tendered is taken on record. Same is allowed. The amendment be carried out forthwith.
2. Rule. Learned AGP waives service. Heard learned counsel for the parties finally by consent.
3. These petitions are filed by the Petitioner seeking direction to Respondent Nos. 3 & 4 (Tahsildar, Mhada, District Solapur & Police inspector Temburni Police Station, District Solapur) to release his seized vehicles being a Tractor bearing Reg. No. MH-45/AU-8379 which is subject matter of WP/4331/2025 and a JCB machine bearing Reg. No. MH-13/DE-1468 which is subject matter of WP/4332/2025.
4. On the information of alleged illegal excavation of *murum*, the police authorities have seized the Petitioner's said vehicles on 14.11.2024

on the allegation that the same were being used in illegal excavation and transportation of *murum*. Based on the police report dated 14.11.2024, the Respondent No 3 issued show-cause notices dated 26.11.2024 to the Petitioner about seizure of vehicles and imposed penalty of Rs.1,10,200/- and Rs.7,50,000/- under section 48(7)(8) of Maharashtra Land Revenue Code, 1966 ('the Code' for short). According to Petitioner, the penalty was imposed on same day without granting even 7 days time to reply. The Petitioner being aggrieved, filed appeals before Respondent No. 2 - Sub Divisional Officer (SDO), Kurduwadi, which were allowed setting aside the orders dated 26.11.2024 and both the cases were remanded back for fresh consideration to Tahsildar. According to Petitioner, thereafter neither the cases are being heard nor the vehicles are being returned. Petitioner filed applications for return of vehicles, however, the same are also kept pending. It is urged that Petitioner's vehicles which are his means to earn livelihood, which are being wasted and damaged standing in the police station. In these circumstances, the petitions are filed.

5. Learned counsel for the Petitioner submitted that seizure of vehicles as carried out by Respondent No. 4 police authority is completely illegal and therefore all the further actions and proceedings adopted by Respondent No. 3 Tahsildar in pursuance of such illegal seizure, are also vitiated and therefore, the same be quashed and set aside, directing release of vehicles. He has relied upon order of the co-ordinate bench of this Court, bench at Nagpur in the case of *Gufran Khan Rahmatullah Khan Vs. State of Maharashtra (Writ Petition No. 8424 of 2018, Order dated 13.03.2019)*.

6. Learned AGP appearing for the Respondent State was at pains to justify the impugned action, however, she could not distinguish the facts of the present case from the facts of the case relied upon by the Petitioner.

7. It is not in dispute that the Petitioner's said vehicles are seized and

are lying in the police station. It is also not in dispute that the vehicles were seized by police authority and not by Tahsildar. It is further not in dispute that the case of penalty, remanded to Tahsildar and request for return of vehicles are pending. We note that in the appeal orders, the concerned SDO has held that it is not clear from record whether due panchnama was drawn or statements were recorded and therefore the cases were remanded. In the case of *Gufran Khan (supra)*, this Court has taken a view, in similar facts of alleged breach of provisions of the Code while transporting sand, that when the seizure of vehicle is not done by the Tahsildar but by the police authority, such action is illegal. Facts of the present case are clearly covered by the said case. Therefore the impugned action of seizure and the consequent actions taken thereafter, cannot be sustained.

8. For the aforesaid reasons, it is held that the seizure of the Petitioner's said vehicles by the Respondent No.4 on 14.11.2024 is contrary to law. In that view of the matter, the entire proceedings initiated pursuant to such illegal seizure of vehicles, including show-cause notices dated 26.11.2024 are quashed and set aside. All consequential steps be taken by the Respondent Nos. 2 and 3, including release of the Petitioner's said vehicles, within 2 days of receipt of this order.

9. Rule is made absolute and writ petition is disposed of in above terms. No order as to costs.

10. All concerned to act on duly authenticated or digitally signed copy of this order.

[M. M. SATHAYE, J.]

[A. S. CHANDURKAR, J.]