

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

**WRIT PETITION NO.13305 OF 2023
ALONG WITH
INTERIM APPLICATION NO.3582 OF 2024**

Vaijayanti R. Kalekar }
Hindu, Age-39 Adult, Occupation-Advocate }
Vrundavan CHS Ltd., 1401, }
14th floor, Shivram Master Wadi, Mori Road, }
Mahim (West) Mumbai-400 016. }

.. Petitioner/Applicant

Versus

1. State of Maharashtra, }
Revenue Department, Mantralaya Mumbai }
Through its Secretary, Revenue Department }
Mantralaya, Mumbai. }
2. State of Maharashtra }
The Ministry of Mining Department }
Chira Stone Mining, Mantralaya Mumbai. }
Through its Secretary, }
Ministry of Chira Stone Mining Department }
Mantralaya, Mumbai. }
3. The Collector, }
District Ratnagiri, State of Maharashtra }
Through Government Pleader Office, }
High Court Bombay. }
4. District Mining Officer Ratnagiri }
Office of Collector of Ratnagiri }
District Ratnagiri, Maharashtra }
Through Government Pleader Office, }
High Court Bombay. }
5. Kashinath Vishram Bhadrike }
Hindu Adult Age & Occupation-Not Known }
Add- Village Nargoli, Mawlatwad }
Taluka Dapoli, District-Ratnagiri, }

6. Saraswati Narayan Bhadrike }
(Wife of late Narayan Vishram Bhadrike) }
Narayan Vishram Bhadrike since deceased }
Through His Legal heirs) }
Hindu Adult Age & Occ: Not known }
Add- Village Nargoli, Mawlatwadi, }
Taluka Dapoli, District- Ratnagiri }
7. Deepak Narayan Bhadrike }
(Son of late Narayan Vishram Bhadrike) }
Hindu Adult Age & Occu- Not known }
Add-Village Nargoli, Mawlatwadi }
Taluka Dapoli, District- Ratnagiri }
8. Mayuri Santosh Jadhav }
(married Daughter of late Narayan }
Vishram Bhadrike) }
Hindu Adult Age & Occu- Not known }
Add-Village Nargoli, Mawlatwadi }
Taluka Dapoli, District- Ratnagiri }
9. Shashikant Shriram Dongre }
Hindu Adult, Age-not known }
Occupation-Chira Stone Mining }
Add-Jalgaon,Taluka Dapoli, }
District- Ratnagiri }
10. Ashutosh Shashikant Dongre }
Hindu Adult, Age-not known }
Occupation-Chira Stone Mining }
Add-Jalgaon,Taluka Dapoli, }
District- Ratnagiri }
11. Gram Panchayat Karanjani }
Village Karanjani, Taluka Dapoli }
District- Ratnagiri }
12. Sub Divisional Officer Dapoli }
Dapoli, District-Ratnagiri }
13. Thesildar Dapoli }
Office of Thesildar Dapoli, }
Taluka Dapoli, District Ratnagiri }

- | | | |
|-----|------------------------------------|-----------------------|
| 14. | Talathi | } |
| | of village Karanjani, | } |
| | Through Office of Thesildar Dapoli | } |
| | Taluka Dapoli, District-Ratnagiri | } |
| 15. | Antosh Dattaram Kalekar | } |
| | Age- not known | } |
| | Occ- mining business, Village- | } |
| | Karanjani Taluka Dapoli | } |
| | District- Ratnagiri | } |
| 16. | Vijay Kashinath Bhadrike | } |
| | Son of Kashinath Vishram Bhadrike | } |
| | Hindu Adult, Age & Occ- not known | } |
| | Add-Village Nargoli, Mawlatwadi, | } |
| | Taluka Dapoli, District- Ratnagiri | }..Respondents |

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Ms. Vaijayanti R. Kalekar, Petitioner-in-person.

Mr. N.C. Walimbe, Additional Government Pleader with Mrs. Reena A. Salunkhe, Assistant Government Pleader for the Respondent-State.

Mr. K.K. Jadhav with Ms. Shital J. Jadhav, Advocates for Respondent Nos.9 and 10.

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

Date on which the order is reserved : 28th APRIL 2025
Date on which the order is passed : 6th MAY 2025

P.C. :

1. The challenge raised in this writ petition is to the order dated 15/07/2023 passed by the Collector in exercise of jurisdiction vested in him under the provisions of the Maharashtra Land Revenue Code, 1966 (for short, 'the Code').

2. On 24/03/2022, the petitioner filed an application before the Collector praying that the Collector should take necessary steps to stop the mining of chira stone in Gat no.1046, village Karanjani, Taluka Dapoli, District Ratnagiri. It was further prayed that the boundaries of Gat no.1046 be fixed after giving notice to all concerned parties as required under the Code with a further prayer to restore Gat no.1046 to its original form. Various other prayers including the prayer for seeking compensation and damages caused on account of illegal mining in Gat No.1046 were also made. Since the said application was not being considered, the petitioner filed Writ Petition No.1899 of 2023 in this Court. By an order dated 16/02/2023, notice was issued to the respondents and the Collector was directed to visit the subject property and find out if any illegal mining activities were going on in the said property. The report was to be thereafter submitted. By the order dated 22/06/2023, the aforesaid writ petition was disposed of by directing the Collector to grant an opportunity of hearing to the petitioner and decide the application dated 24/03/2022 by passing a reasoned order. The Collector thereafter on 15/07/2023 heard the petitioner as well as all other parties who had been arrayed as non-applicants in the said proceedings. After considering the submissions made by the parties, the Collector

rejected the application preferred by the petitioner and issued various other directions on the prayer for grant of compensation as well as the prayer for taking action against the concerned parties for allegedly submitting false documents. The petitioner being aggrieved by this order has filed this petition.

3. As the petitioner was appearing-in-person, she was directed by the order dated 06/01/2025 to place on record her note of written arguments. Similar opportunity was given to the learned Additional Government Pleader appearing for respondent nos.1 to 4 as well as the learned counsel appearing for respondent nos.9 and 10. The written notes have accordingly been placed on record by them.

4. We have perused the written note of arguments submitted by the petitioner-in-person, the learned Additional Government Pleader as well as the learned counsel appearing for respondent nos.9 and 10. We find that the application dated 24/03/2022 as amended was considered by the Collector in exercise of jurisdiction conferred by the Code. Such jurisdiction is seen to have been exercised in view of the petitioner's grievance that there had been alleged illegal excavation of minor minerals from Gat nos.1046. The jurisdiction to take action in this regard is conferred by Sections 48(7) and 48(8) of the Code. In our view

therefore when the Collector has considered the petitioner's grievance in the backdrop of power conferring by Section 48 of the Code, in accordance with Schedule E to the Code, the remedy of approaching the Divisional Commissioner under Section 247 of the Code is available. Such jurisdiction is also preserved by virtue of Section 257(1) of the Code with the Divisional Commissioner. Another reason that has weighed with us is that the nature of grievances raised by the petitioner-in-person entails undertaking factual adjudication on the basis of various inspections carried out by revenue authorities in the light of the nature of grievances raised. In exercise of appellate or revisional jurisdiction, the Divisional Commissioner can consider these aspects in accordance with law.

5. It is for this reason that we are inclined to relegate the petitioner-in-person to avail the remedy of approaching the Divisional Commissioner being a superior Authority as per Schedule E to the Code for challenging the correctness of the order dated 15/07/2023 passed by the Collector. Insofar as other reliefs sought by the petitioner in the matter of grant of compensation in lieu of damages caused and loss sustained coupled with a prayer to conduct an enquiry into the working of various Revenue Authorities, the same would depend upon the

outcome of the proceedings to be decided by the Divisional Commissioner. We may only observe that being a superior revenue authority under the Code, such jurisdiction is vested with the Divisional Commissioner and it is open for him to exercise the same in accordance with law, if the situation warrants. For this reason, we are not inclined to invoke writ jurisdiction at this stage.

6. Accordingly, the following order is passed:-

i) The petitioner-in-person is at liberty to challenge the order dated 15/07/2023 passed by the Collector by approaching the Divisional Commissioner in accordance with law. If the petitioner-in-person invokes the jurisdiction of the Divisional Commissioner, he shall exercise the same in accordance with law and in the light of the provisions of Section 247/257 of the Code as the case may be. If such proceedings are filed within a period of four weeks from today, the same shall be entertained on merits without going into the aspect of limitation.

ii) It is clarified that the contentions of both parties on merits are kept upon for being raised before the Divisional Commissioner. All other ancillary prayers are also kept open for being pursued in accordance with law, dependent upon

the outcome of the adjudication by the Divisional Commissioner.

iii) The writ petition is disposed of with aforesaid directions.

iv) The pending Interim Application is also disposed of.

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

[M.M. SATHAYE, J.]

[A.S. CHANDURKAR, J.]