

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

**WRIT PETITION NO.13333 OF 2023
ALONG WITH
INTERIM APPLICATION NO.3583 OF 2024**

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

.. Petitioner/Applicant

Versus

1. State of Maharashtra, }
Hon'ble Chief Minister of }
State of Maharashtra }
Through its Chief Secretary, }
Head of the executive branch }
of Government of State of Maharashtra }
Mantralaya, Mumbai. }
2. The Ld. Collector }
District-Ratnagiri, State of Maharashtra }
3. The Ld. Sub Divisional Officer Dapoli }
Having his office at Dapoli }
Taluka Dapoli, District-Ratnagiri }
4. The Ld. Thesildar- Dapoli }
Taluka Dapoli, District-Ratnagiri }
5. The Ld. Circle Officer, }
Sub Divisional Office Dapoli, }
Taluka Dapoli, District Ratnagiri }
6. The Ld. Chief Engineer }
Public Work Department, }
Taluka Dapoli, District-Ratnagiri. }
7. Village Gram Panchayat of Karanjani }
A body corporate, having its office at }
Village Karanjani, Taluka Dapoli, }

- | | |
|------------------------------------|----------------|
| District-Ratnagiri, | } |
| State of Maharashtra | } |
| (1 to 7 through Government Pleader | } |
| High Court Bombay) | } |
| 8. Antosh Dattaram Kalekar | } |
| Village-Karanjani Taluka Dapoli | } |
| District- Ratnagiri | } |
| 9. Suryakant Rajaram Kalekar | } |
| Village Karanjani, Taluka Dapoli | } |
| District Ratnagiri. | } |
| 10. Smt. Draupati Shantaram Sawant | } |
| Mavlat wadi, Village-Karanjani, | } |
| Taluka Dapoli, District Ratnagiri. | }..Respondents |

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.

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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 by directing removal of about 100 trucks of chira mining

waste mud from the land near the petitioner's Gat nos.1514 and 1500, village Karanjani, Taluka Dapoli, District Ratnagiri. Various other prayers including the prayer for taking action against the respondent no.8 for such illegal act were also made. Since the said application was not being considered, the petitioner filed Writ Petition No.5038 of 2023 in this Court. 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 held that the mining waste was found on Gat no.1512 and not on Gat nos.1514 and 1500. He further held that the respondent no.8 was not connected with the same. The application to that extent was rejected. As regards other reliefs, the petitioner was directed to avail other remedies. The petitioner being aggrieved by the said order has filed this writ 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 6. 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 and the learned Additional Government Pleader. 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 has been alleged illegal dumping of minor mineral waste near Gat nos.1514 and 1500 as well as diversion of village rain water to the petitioner's farms. The jurisdiction to take action in this regard is conferred on the revenue authorities under the Code. In our view therefore when the Collector has considered the petitioner's grievance in the backdrop of power conferred by 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 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. 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 are concerned including the 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.

5. For the aforesaid reasons, 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. 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 Applications are 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.]