

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5604 OF 2025

- |                                                  |   |                |
|--------------------------------------------------|---|----------------|
| 1. Aditya Dharmendra Goyal                       | ] |                |
| 2. Lata Dharmendra Goyal                         | ] | .. Petitioners |
| <b>Versus</b>                                    |   |                |
| 1. The Tahsildar and Executive Magistrate, Thane | ] |                |
| 2. The Circle Officer, Mumbra, Dist. Thane       | ] |                |
| 3. The Talathi, Saja, Diva, Dist. Thane          | ] |                |
| 4. The State of Maharashtra,                     | ] |                |
| Through Revenue Officer, Dist. Thane             | ] | .. Respondents |

Mr. R.V. Pai, Senior Advocate, with Mr. Akshay Pai, i/by Mr. M.A. Khan and Ms. Deepti Mehta, Advocates for the Petitioners.

Mr. M.M. Pable, Assistant Government Pleader for the Respondents.

CORAM : A.S. CHANDURKAR &  
DR. NEELA GOKHALE, JJ

DATE : 7<sup>TH</sup> MAY 2025.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. Rule. Rule made returnable forthwith and heard learned counsel for the parties.

2. Pursuant to an earlier order passed by this Court in Writ Petition No.12072 of 2022 (*Shri. Aditya Dharmendra Goyal and Ors. Vs. The Tahsildar and Executive Magistrate, Thane and Ors.*) dated 2<sup>nd</sup> May 2023, the order dated 3<sup>rd</sup> December 2024 has been passed by the Tahsildar and Executive Magistrate, Thane. By the said order, the Tahsildar has maintained his earlier order dated 12<sup>th</sup> July 2022 and has directed the

petitioners to pay an amount of Rs.1,71,05,04,768/- under Section 48(7) of the Maharashtra Land Revenue Code, 1966. Being aggrieved, the petitioners have preferred an appeal under Section 247 of the Code before the Sub-Divisional Officer. Along with the said appeal an application for stay has also been preferred. In the meanwhile, on 27<sup>th</sup> March 2025, the Tahsildar has sought to execute his earlier order dated 3<sup>rd</sup> December 2024. In this backdrop, the petitioners have approached this Court seeking relief.

3. After hearing the learned Senior Advocate for the petitioners as well as the learned Assistant Government Pleader for the respondents, we find that under the First Proviso to Section 256(2) of the Code, in an appeal preferred against an order directing payment of an amount to the State Government, the execution of such order cannot be stayed unless the appellant deposits 25% of such amount payable to the Government. Under the Second Proviso to Section 256(2) of the Code, in exceptional cases the Appellate Authority after recording reasons in writing can suitably reduce the amount of deposit of 25%. In the light of these statutory provisions, it would be open for the petitioners to invoke the Second Proviso to Section 256(2) of the Code and seek reduction in the amount of the mandatory deposit, in case the Appellate Authority is inclined to grant stay. In that view of the matter, the following order is passed :-

- (i) While seeking stay of the order dated 3<sup>rd</sup> December, 2024, it would be open for the petitioners to request

the Appellate Authority to reduce the amount of deposit as mandated by the First Proviso to Section 256(2) of the Code.

- (ii) If such application is made by the petitioners within a period of ten days from today, the same shall be considered and decided by the Appellate Authority on its own merits and in accordance with law within a period of four weeks from that date.
- (iii) Till the said application is considered, the Tahsildar/Circle Officer shall not take any further steps pursuant to the communication dated 27<sup>th</sup> March 2025.
- (iv) It is clarified that this protection is without entering into the merits of the case and only to enable the petitioners to make such request.
- (v) In case any adverse order is passed by the Sub-Divisional Officer, the same shall not be implemented for a period of two weeks from the date of its communication to the petitioners.

4. Keeping all issues on merits open and with aforesaid directions, Rule is disposed of in aforesaid terms. No costs.

[ DR. NEELA GOKHALE, J. ]

[ A.S. CHANDURKAR, J. ]