

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5979 OF 2025

Aai Ekvira Devi Chalak Malak Dumper

Sangathana And Anr

...Petitioners

Versus

The State Of Maharashtra Thr Addl Govt

Pleader And Ors

...Respondents

Adv Pankaj Pandeya a/w Smit Nagda i/b Ankit Jain, for the Petitioner.

Adv. A.I. Patel, Addl. GP a/w Adv. Tejas Kapre, AGP.

Mr. Satyajit Mahadev Chavan, Residential Nayab Tahsildar, Kalyan Tahsil,
Thane- Present.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 08 MAY 2025

P.C.:

1. This petition under Article 226 of the Constitution of India is filed
praying for the following substantive relief :-

“b) This Hon’ble Court be pleased to quash and set aside the demand notices dated 07.04.2025 issued to Respondent Nos. 2 at Exhibit-A and further direct the Respondents to release the vehicles described at Exhibit-C of the Petitioner Nos. 2.”

2. Mr. Patel, learned AGP on the instructions of the Nayab Tahsildar, Kalyan, who is present in the Court submits that an order dated 11 April

2025 has been passed under the provisions of section 48(7) read with sub-section 8(1)(2) of the Maharashtra Land Revenue Code, 1966 (“MLRC”). By this order a penalty amounting to Rs. 2,43,004/- has been imposed on the materials (mines and minerals) as also on the vehicle. The petitioner has also been called upon to furnish a bond as per the requirement of Section 48(8)(2). For an easy reference we note the provisions of section 48(7) read with sub section 8(1) and (2) of the MLRC, which read thus :-

“48. Government title to mines and minerals:

(7) Any person who without lawful authority extracts, removes, collects, replaces, picks up or disposes of any mineral from working or derelict mines, quarries, old dumps, fields, bandhas (whether on the plea of repairing or construction of bunds of the fields or on any other plea), nallas, creeks, river-beds or such other places wherever situate, the right to which vests in, and has not been assigned by the State Government, shall, without prejudice to any other mode of action that may be taken against him, be liable, on the order in writing of the Collector, to pay penalty not exceeding a sum determined, at three times the market value of the minerals so extracted, removed, collected, replaced, picked up or disposed of, as the may be:

Provided that, if the sum so determined is less than one thousand rupees, the penalty may be such larger sum not exceeding one thousand rupees as the Collector may impose.

(8) (1) Without prejudice to the provision of sub-section (7), the Collector or any revenue officer not below the rank of Tahsildar authorised by the Collector in this behalf, may seize and confiscate any mineral extracted, removed, collected, replaced, picked up or disposed of from any mine, quarry or other place referred to in sub-section (7), the right to which vests in, and has not been assigned by the State Government, and may also seize and confiscate any machinery and equipment used for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and any means of transport deployed to transport the same.

(2) Such machinery or equipment or means of transport, used for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals or transportation thereof, which is seized under sub-section (1), shall be produced before the Collector or such other officer not below the rank of Deputy Collector authorised by the

Collector in this behalf, within a period of forty-eight hours of such seizure, who may release such seized machinery, equipment or means of transport on payment by the owner thereof of such penalty as may be prescribed and also on furnishing personal bond of an amount not exceeding the market value or the seized machinery, equipment or means of transport, stating therein that such seized machinery, equipment or means of transport shall not be used in future for unauthorised extraction, removal, collection, replacement, picking up or disposal of minor minerals and transportation of the same”.

3. We find that against such order dated 11 April 2025, there is also an appeal available under section 247 of the MLRC.

4. On such backdrop, we have heard learned counsel for the petitioner, who on instructions submits that the petitioner is ready and willing to deposit the said amount of Rs.2,43,004/- with the office of the Tahsildar, Kalyan without prejudice to the petitioner’s rights and contentions. The petitioner is also willing to furnish a bond as directed in terms of Sub Section 48 (8) (2). In our opinion, accepting the petitioner’s willingness to adhere to the necessary formalities, it would be appropriate to dispose of the writ petition in the terms of the following order :-

ORDER

(i) Let the amount, as directed under the order dated 11 April 2025, (copy of which is taken on record and also furnished to the Advocate for the petitioner) be deposited with the State Government within one week from today.

(ii) The petitioner to furnish a bond as per the requirement of Section 48(8)(2) to the Tahsildar, Kalyan.

(iii) On the aforesaid compliance, the vehicle of the petitioner as also the materials be released.

(iv) This, however, shall be subject to the petitioner's rights and contentions to challenge the quantum and legality of the penalty as imposed by an order dated 11 April 2025, in a statutory appeal to be filed by the petitioner.

(v) All contentions of the parties in that regard are expressly kept open.

(vi) Writ Petition stands disposed of. No Costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]