Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11610 OF 2025

M/s. Mahalaxmi Properties … Petitioner
Vs.
The State of Maharashtra & Ors. … Respondents

Mr. Shruti Sardesai i/b. Wadia Ghandy & Co. for the petitioner.
Ms. Savita A. Prabhune, AGP for the State.
Mr. Mayuresh S. Lagu for respondent nos. 5 and 6.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.
DATED: 11 SEPTEMBER, 2025

P.C.

1. This is a peculiar case that although it appears that the petitioner was not liable to deposit any amounts in regard to the royalty being charged in respect of the excavation being undertaken on the adjoining land and merely because the petitioner permitted the excavated materials to be stored/dumped on its land, the petitioner was required to suffer a show cause notice as also unwarranted litigation before the Sub-Divisional Officer, Thane and thereafter before the Additional Collector.

2. In the course of such proceedings, firstly before the Circle Inspector, an amount of Rs. 19,91,452/- was deposited by the petitioner. Thereafter, aggrieved by an order dated 9 October, 2017 passed by the Sub-Divisional Officer, the petitioner filed an appeal, being R.T.S. Appeal No. 142 of 2018, before Respondent no. 4-Additional Collector, Thane. In the course of such proceedings, the petitioner was called upon to deposit 25% of the total penalty and royalty amount. The petitioner accordingly deposited an amount of Rs.14,89,649/-, which was in addition to the

earlier deposit of Rs.19,91,452/-. Thus, total amount of Rs.34,81,101/- was deposited by the petitioner.

3. The proceedings filed by the petitioner before the Additional Commissioner have ultimately succeeded in the Additional Commissioner allowing the petitioner's R.T.S. Revision No. 816 of 2019 vide order dated 24 September, 2020. Thus, having succeeded in the said proceedings, the petitioner has become entitled to the said amounts which were deposited. The petitioner is running from pillar to post from almost September, 2020, which is for a period of five years to obtain a return of the amounts which were deposited.

4. It is quite surprising that despite the petitioner having succeeded, the Additional Commissioner although passed consequential orders granting refund of the amount, yet the refund was not processed. In these circumstances, considering such arbitrary approach as adopted by respondent nos. 1 to 5, we are constrained to pass an order that the entire amount of 34,81,101/- as deposited by the petitioner, be deposited in this Court by the Commissioner or his concerned officer along with interest @ 6.5% within a period of two weeks from today. There shall not be any further extension of time to deposit the said amount.

5. In the meantime, reply affidavit also be placed on record. It shall also be set out as to who is concerned official who was responsible and accountable for not granting the return of the amount to the petitioner and/or for such lapse and as to why the State Government should suffer on the interest amount on such delayed payment and/or the consequences of this order, so that appropriate order against the

said officer can be passed and the interest amount can be recovered personally from the said officer.

6. At this stage, we are informed by the learned counsel for the petitioner that there is a communication dated 27 June, 2025 received under RTI Application from the Office of the Public Information Officer, Assistant Revenue Officer, Thane that the refund claim of the petitioner is in process. It, therefore, appears that it is the Tahsildar who is delaying payment and for no reasons whatsoever.

7. We cannot countenance that the Tahsildar is not aware of the order passed by the Additional Commissioner and he is not bound by the same, however, as to why he has delayed the amount payable, is the question. Therefore, whether the Tehsildar would be personally become liable to pay interest needs to be clarified by the Commissioner as also by the Tehsildar, as he cannot take a position that for his lapses, the Government is required to suffer or burdened with the interest.

8. Ms. Prabhune, learned AGP to immediately inform the order to the Commissioner, Thane, as the issue raised by the petitioner is a serious issue and more particularly when it concerns the waste of revenue of the State Government on interest. The petitioner being deprived of the amounts, amounts to breach of the petitioner's rights guaranteed under Article 300A of the Constitution.

9. Stand over to **25 September, 2025 (H.O.B.).**

10. Parties to act on the authenticated copy of the order.

(AARTI SATHE, J.) **(G. S. KULKARNI , J.)**

(Order is corrected as per the speaking to the minutes of the order dated 23 September 2025.)