

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.7487 OF 2024**

Smt. Madhuri Veerdhaval Chalukya,
Age: 60 YEARS, R/O A 158,
Indira Nagar Housing Society,
Vijapur Road, Solapur.

..Petitioner

Versus

1. Mr. Bajirao Krushanath Khedkar,
Age: 45 years, Occ: Advocate & Social Worker,
R/o Ghotwade, Tq. Panhala, Dist Kolhapur.
2. The State of Maharashtra,
Through Secretary, (Industries),
1st Floor, Annex Building, Industries,
Energy and Labour Department,
Mantralaya, Mumbai.
3. Shri. Rajeev Surendra Doddanawar
Since Deceased through LR's
 - a) Smt. Subhadarani Rajeev Doddanawar,
R/o House No. 1029, Ram Jeevan, Giranar Hill,
Hindwadi, Belgaon.
 - b) Bhamhi Rajeev Doddanawar,
As above.
4. Directorate of Geology and Mining,
Plot No. 27, Khanji Bhavan,
Shivaji Nagar, Cement Road, Nagpur.
5. Chief Controller,
Indian Bureau of Mines, Nagpur.
6. Regional Controller,
Indian Bureau of Mines,
Madgao, Margo, Goa.

..Respondents

**WITH
WRIT PETITION NO.7488 OF 2024**

Smt. Madhuri Veerdhaval Chalukya,
Age: 60 years, R/o A 158,
Indira Nagar Housing Society,
Vijapur Road, Solapur.

..Petitioner

Versus

1. M/s. Major Pralhad R. Desai,
A registered partnership firm

through its Authorized signatory
Shri. Yuvraj Ananda Patil,
At. Ghungur, PO-Bandi Wade,
Tq. Shahuwadi, Dist Kolhapur.

2. The State of Maharashtra,
Through its Addl. Chief Secretary,
(Industries), 1st Floor, Annex Building,
Industries, Energy and Labour Department,
Mantralaya, Mumbai.
3. Directorate of Geology and Mining,
Plot No. 27, Khanji Bhavan, Shivaji Nagar,
Cement Road, Nagpur.
4. Regional Controller,
Indian Bureau of Mines, Madgao, Margo, Goa.
5. Mr. Bajirao Khedkar,
At Post Ghotwade, Tq. Panhala, Dist Kolhapur.
6. Shri. Rajeev Surendra Doddanawar
Since Deceased through LR's
 - a) Smt. Subhadarani Rajeev Doddanawar,
R/o House No. 1029, Ram Jeevan,
Giranar Hill, Hindwadi, Belgaon.
 - b) Bhamhi Rajeev Doddanawar,
As above.

..Respondents

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Mr. Yuvraj Narvankar a/w Ms. Rashmi Sajanikar a/w Mr. Raufa Shaikh a/w Ms. Radhika Kurdukar, Advocate for Petitioner.
Mr. Abhay Khandeparkar, Senior Advocate i/by Mr. Dilip Bodke a/w Mr. Sharad G. Bhosale and Mr. Amar P. Dhumal and Mr. Viraj P. Dhumal, Advocate for Respondent.
Mr. J. P. Patil, AGP for Respondent-State in WP/7487/2024.
Mr. Vikas M. Mali, AGP for Respondent-State in WP/7488/2024.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 27th FEBRUARY, 2026.
PRONOUNCED ON : 26th MAY, 2026.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matters are taken up for final hearing at admission stage.

2. The petitioner impugns order dated 19.03.2024 passed by Revisional Authority/Joint Secretary, Ministry of Mines, Government of India under Section 30 of Mines and Minerals (Development & Regulation) Act, 1957 (for short 'MMDR Act, 1957') and Rule 36 of Minerals (other than Atomic & Hydro Carbons Energy Minerals) Concession Rules, 2016 (for short 'MCR 2016'), whereby revision filed by respondent no.1 has been allowed directing execution of lease in name of partnership firm i.e. M/s. Major Pralhad R. Desai by quashing and setting aside orders dated 28.11.2018 and 29.08.2019 passed by Government of Maharashtra.

3. Brief facts giving rise to present petitions can be stated as under:

Major Pralhad R. Desai (retired) submitted an application to State of Maharashtra for grant of mining lease in respect of landed property bearing Block Nos.1005/1 to 1005/8 at village Sittur turf Varun, Taluka Shahuwadi, District Kolhapur. On 15.02.2000 State of Maharashtra forwarded proposal for prior approval to Secretary, Government of India, Ministry of Mines and Minerals Department, New Delhi. On 24.05.2000, Government of India was pleased to grant approval under Section 5(1) of MMDR Act, 1957 for grant of mining lease in name of Major Pralhad R. Desai. On 22.07.2000, State of Maharashtra pleased to sanction mining lease for period of 30 days for bauxite minerals from non-forest area of

Kolhapur District in exercise of powers conferred under sub-Section (3) of Section 10 of MMDR Act, 1957 in name of M/s. Major Pralhad R. Desai. The lease was expected to be executed in terms of final order after getting necessary sanctions from various departments subject to provisions of MMDR Act, 1957 and MCR 2016. However, Major Pralhad R. Desai sought various extensions quoting difficulties for submission of mining plan. Accordingly, several extensions were granted. On 24.05.2000, Major Pralhad Desai submitted application for approval of mining plan to Director, Indian Bureau of Mines and sought further extension of six months awaiting forest and environmental clearance. It appears that, till 2017 extensions were granted in favour of Major Pralhad R. Desai considering various difficulties posed by him. On 12.07.2016, last extension was granted. Unfortunately on 29.03.2017, Major Pralhad Desai passed away.

On 21.05.2018, petitioner made application for transposition of her name on the basis of registered Will dated 24.06.2015 purportedly executed by Major Pralhad Desai in her favour. On 28.11.2018, State of Maharashtra approved for transfer of mining lease in name of petitioner accepting her to be legal heir of Major Pralhad Desai. Immediately on 30.11.2018 petitioner sought extension for execution of lease. On 15.04.2019, respondent no.3 filed objection to orders dated 28.11.2018 and 11.04.2019 granting

approval of transfer of mining lease in name of petitioner. On 29.08.2019, State of Maharashtra passed order holding that mining lease was individually granted in favour of Major Pralhad Desai and upholding individual right of petitioner for transposition. It has been observed that original application for mining lease was individually made by Major Pralhad Desai. The Central Government approved grant of lease individually in his favour. As such, by invoking Rule 25(A) of MCR 1960 upheld deemed substitution in favour of petitioner.

The aforesaid orders were subjected to Revision before Central Government/Ministry of Mines, New Delhi under Section 30 of MMDR Act, 1957 r/w Rule 35 of MCR 1960 by respondent no.1 and M/s. Major Pralhad R. Desai/partnership firm. The Joint Secretary and Revisional Authority allowed both Revision Applications, thereby setting aside impugned orders dated 28.11.2018 and 29.08.2019 and directed State Government to take necessary steps for execution of lease in name of partnership firm, M/s. Major Pralhad R. Desai in terms of MMDR Act, 1957 and MCR 1960. While allowing Revision Application it has been observed that State Government vide order dated 22.07.2000 has granted mining lease for bauxite minerals to partnership firm M/s. Major Pralhad R. Desai. Thus, subsequent transfer of lease to Smt. Madhuri V. Chalukya/petitioner accepting her right to be legal heir

of Major Pralhad Desai is *void ab initio*. The State Government representative has accepted during hearing that as per record of State Government lease was granted in name of partnership firm. Similarly, in written submissions of State Government dated 28.06.2021, 18.01.2022 and 22.05.2023 same fact has been reiterated. It is further observed that there was no provision for mutation of mining lease or composite license in favour of legal heir on death of lessee or licensee in MCR 2016. The said provision is inserted through Rule 23(B) on 02.11.2021. As such, State Government was wrong in invoking provisions of MCR 1960 while dealing with petitioner's application in year 2018 for transfer/mutation in her name.

4. Mr. Yuvraj Narvankar, learned Advocate appearing for petitioner would submit that Major Pralhad R. Desai has applied for mining lease in his individual capacity. The State Government with prior approval dated 24.05.2000 from Government of India granted lease under Section 5(1) of MMDR Act, 1957 for period of 30 years in his favour. The respondent wants to take advantage of typing mistake in final order dated 22.07.2000, whereby prefix as "M/s" occurs before name of Major Palhad R. Desai. By inviting attention of this Court to application for lease, he would point out that application was for grant of individual lease. It was recommended by State Government to Central Government for

approval. The approval was accorded by Central Government individually in name of Major Pralhad Desai. However, while preparing draft of final order, letter issued in name of M/s. Alatge Stone Crushing Company was referred. The prefix “M/s” in that letter was carried forward while issuing final order against application of Major Pralhad R. Desai.

5. Mr. Narvankar would further invite attention of this Court to various extensions for execution of lease individually granted in favour of Major Palhad Desai. The last such extension was granted on 12.07.2016. Mr. Narvankar would point out that Rule 62 of MCR 1960 prescribes “*procedure for change of name of applicant which needs to be intimated to State Government within sixty days of such change*”. In present case, application for lease was made on 26.09.1995. The respondents contend that on 17.06.1996 unregistered partnership firm was established in name of M/s. Major Pralhad Desai. The alleged application for change of applicant in name of firm was made on 07.03.2000 without explaining delay of approximately four years. He would submit that there is no reference of partnership firm in subsequent communications to State Government. The Revisional Authority erroneously relied upon inconsistent stand taken by State Government while accepting contention of respondent that lease was granted in favour of M/s. Major Pralhad Desai/partnership

firm. Mr. Narvankar would further submit that under Rule 25(A) of MCR 1960 legal representatives are entitled to seek mutation in case of death of applicant seeking mining lease. He would, therefore, urge to quash and set aside impugned orders and restore orders passed by State Government in favour of petitioner.

6. Per contra, Mr. Abhay Khandeparkar, learned Senior Advocate appearing for respondents submits that although Major Pralhad Desai had individually applied for grant of mining lease, on 17.06.1996 he entered into partnership with four partners in name and style as “M/s. Major Pralhad R. Desai”. On 07.03.2000, he requested State Government to issue mining lease order in name of partnership firm. Accordingly, Director, Geology and Mining Department forwarded noting to State Government for change of name of applicant as well as area of mining. Accordingly, final order for grant of mining lease in name of partnership firm i.e. M/s. Major Pralhad R. Desai has been passed. Mr. Khandeparkar invites attention of this Court to various communications made by partnership firm to State Government and Director Office for execution of mining lease and extensions of mining lease period. He endeavors to bring to notice of this Court subsequent development in the form of change in composition of partnership firm, MOU executed between Major Pralhar Desai and respondent no.1 about partnership firm, newspaper publication

made in this regard and transfer of amount of Rs.50,00,000/- to Major Pralhad Desai on his retirement from partnership firm. He would further point out that petitioner is not real sister of Major Pralhad Desai, but she is caretaker/foster sister. The Probate in respect of Will is not produced, rather application for Probate was withdrawn. The respondent no.3 has instituted Regular Civil Suit No.1116/2019 before Civil Judge Senior Division, Kolhapur raising challenge to Will dated 24.06.2015 allegedly executed by late Pralhad R. Desai in favour of petitioner. The locus of petitioner to claim any right over mining lease on basis of alleged Will is disputed.

7. Having considered submissions advanced by learned Advocates appearing for respective parties and after going through record tendered into service and reasoning adopted by Revisional Authority in impugned order, it can be observed that there is no dispute that Major Pralhad R. Desai had individually applied to State of Maharashtra for grant of mining lease over non-forest property owned by him. The State Government had forwarded his proposal for prior approval to Government of India and same was individually approved. However, there is serious dispute as to presentation of application dated 07.03.2000 by Major Pralhad R. Desai requesting to issue mining lease order in name of partnership firm i.e. M/s. Major Pralhad R. Desai and that final

order dated 22.07.2000 was issued in name of firm M/s Major Pralhad R. Desai.

8. Section 5 of MMDR Act, 1957 prescribes for “*grant of prospecting licenses or mining leases*”. Section 10 prescribes for “*procedure for obtaining prospecting licenses or mining leases*”. Prior approval of Central Government is necessary in respect of notified minerals. Section 13 provides for “*framing of Rules in respect of minerals and for purposes connected therewith*”. In exercise of powers conferred under Section 13 of MMDR Act, 1957, Central Government has framed Rules namely Minerals (other than Atomic & Hydro Carbons Energy Minerals) Concession Rules, 2016. It provides for Forms and contents for application for prospecting license. Rule 25-A of MCR 2016 provides for status of grant on death of applicant for mining lease. It stipulates where an applicant for a grant or renewal of mining lease dies before order granting him a mining lease or its renewal is passed, application for grant or renewal of mining lease shall be deemed to have been made by his legal representative and where order granting or renewing a mining lease is passed, but who dies before Deed referred to in sub-rule (1) of Rule 31 is executed, order shall be deemed to have been passed in name of legal representative of deceased. Rule 62 provides for change of name, nationality, etc. of applicant or holder of prospecting license or mining lease. It

mandates holder to intimate to State Government regarding change in respect of name or nationality or other particulars mentioned in relevant Form within period of sixty days.

9. Perusal of order dated 29.08.2019 passed by State Government/Hon'ble Minister, Industries and Mining, Maharashtra State indicates that objection was raised by M/s. Major Pralhad R. Desai, a partnership firm to transfer of rights in name of petitioner contending that Major Pralhad Desai had entered into partnership agreement in year 1996 and State Government was pleased to sanction mining lease in favour of firm and not individually in name of Major Pralhad Desai. Therefore, petitioner has no *locus standi* to claim any right over mining lease. However, it has been observed by Hon'ble Minister that letter dated 07.03.2000 purported to be submitted by Major Pralhad Desai for issuance of mining lease in name of firm was not part of record. The copy which was submitted on behalf of said firm before him contending that said letter was an intimation under Rule 62 of MCR 1960 about change in status of applicant from proprietorship to partnership firm established in year 1996. The Hon'ble Minister found that said communication is not in conformity with time stipulated in Rule 62(1) of MCR 1960. It does not refer to specific Rule or even does not make any request for change in status of applicant in Form-I, which was under consideration of Central

Government. Eventually, approval is granted by Central Government in individual name. Therefore, only because prefix is added before name Major Pralhad R. Desai in order dated 22.07.2000 does not connote that mining lease was issued to partnership firm.

10. Perusal of impugned order passed by Revisional Authority depicts that State Government changed its stand in written submissions contending that lease was in name of partnership firm i.e. M/s. Major Pralhad R. Desai. Even representatives of State Government accepted during hearing that lease was granted in name of partnership firm. Accordingly, order of State Government was quashed and set aside with further direction for execution of lease in name of partnership firm as per provisions of MMDR Act, 1957 and MCR 1960.

11. This Court finds that when Hon'ble Minister has specifically noted in his order dated 29.08.2019 that communication dated 07.03.2000 purportedly submitted by Major Pralhad Desai to issue mining license in name of firm was not part of file and same cannot be treated as intimation under Rule 62 of MCR 1960. In this backdrop, Revisional Authority could not have jumped to conclusion that lease was approved in favour of partnership firm, particularly when application for license was individually made by Major Pralhad Desai and it was individually approved in his name

by Central Government. Pertinently, Form-I is prescribed for application for mining lease under MCR, 1960. In sub-clause (iii) of Clause (3) separate column is provided for individual application or application by Company, Firm or Association or Co-operative Society. In present case undisputedly application was in individual name of Major Pralhad Desai and same was approved by Central Government on recommendation of State Government. In this backdrop, in absence of application by partnership firm, *prima facie*, there was no reason to issue mining lease order in favour of partnership firm. The possibility that prefix “M/s” before name of Major Pralhad R. Desai in final order is typing error while carrying forward proforma of previous order issued in name of firm cannot be ruled out.

12. In light of aforesaid observations, inconsistent stand taken by State Authority during course of hearing of Revision Application ought to have been thoroughly examined, particularly when such stand was against observations made by Hon’ble Minister in impugned order. It was expected of Revisional Authority to at least call for original record and examine veracity of contentions of State Authorities before reaching to conclusion that mining lease was issued in name of firm.

13. The aforesaid exercise was indispensable, particularly when most of renewals granted by State Government to execute mining

lease were in individual name of Major Pralhad Desai. The documents produced before this Court do not show that change of name of applicant for mining lease was approved by State Government before issuance of final order dated 22.07.2000. A copy of forwarding letter dated 18.03.2000 issued by Geology and Mining Department alongwith draft for change of name and area of mining is brought to notice of this Court, but there is no final order accepting change of name of applicant, that culminated into passing final order in name of firm.

14. In this backdrop, this Court holds that Revisional Authority failed to exercise jurisdiction in judicious manner and committed serious error while relying upon inconsistent stand taken by State Authorities without actual verification of record to satisfy itself about rival claim of parties. It was also open to Revisional Authority to relegate matter back to State Government for reconsideration and passing appropriate order after verifying original record. It cannot be countenanced that State Government is taking contrary stand against its own order before Revisional Authority and Revisional Authority relying upon written submissions or consent of representatives of State Government reversed reasoned order passed by Hon'ble Minister. In result, following order is passed:

ORDER

- a. Writ Petitions are partly allowed.
- b. The impugned order dated 19.03.2024 passed by Joint Secretary and Revisionary Authority in Revision Application Nos.17/02/2019/RC-II-15/2024 and 17/01/2022/RC-II-16/2024, hereby are quashed and set aside.
- c. The matter is relegated back to Revisionary Authority for reconsideration in light of aforesaid observations.
- d. Parties to appear before Revisionary Authority on 17.06.2026.
- e. The Revisionary Authority shall endeavour to decide afresh Revision Applications after perusing original record leading to final order dated 22.07.2000 granting mining lease.
- f. Rule made absolute in aforesaid terms.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/June-2026

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