

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15262 OF 2024

Mahavir Rajendra Darda

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

.....

- Mr. Praphakar Manohar Jadhav, Advocate for Petitioner
- Mr. A.I. Patel, Addl. G.P. a/w Ms. P.J. Gavhane, AGP for State

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 20, 2026

P. C.:

1. Heard Mr. Jadhav, learned Advocate for Petitioner and Mr. Patel, learned Addl. G.P. for Respondent Nos. 1 to 4 - State and its functionaries.

2. Mr. Jadhav has taken me through the gamut of proceedings in the present case. Petitioner is aggrieved with three concurrent orders dated 30.08.2018 passed by Tahsildar, order dated 20.06.2022 upheld by SDO and final order dated 20.04.2024 passed by Additional Collector, Pune upholding the orders passed by Tahsildar and SDO, *inter alia*, indicting Petitioner and levying liability under Section 48(7) of the Maharashtra Land Revenue Code, 1966 (for short “**MLRC**”).

3. What is intriguing is the fact that the principal order passed by Tahsildar is based on incorrect premise as also documentation which is denied by the author of the panchanama itself. Mr. Jadhav has drawn

my attention at the outset to the fact that the fundamental case before the Tahsildar invoking such action is based upon approximation and guesstimate. According to the State and its functionaries, Petitioner and four other parties are guilty of unauthorized excavation of mineral soil from the riverbed of Bhima river and therefore proceedings are invoked against them on the basis of a report which is *prima facie* a cryptic report, copy of which is appended at Exh. "A", page No. 33 of Petition prepared by the Talathi's office and addressed to the Tahsildar. No details whatsoever are stated in the said Report save and except the names of 4 persons including Petitioner and the allegation of unauthorized excavation from the river bed. The office of Tahsildar has been thereafter set into motion for invoking action under Section 48(7) of the MLRC against the Petitioner and 3 others. Appended to the said report is a panchanama which is as cryptic as possible which merely reiterates what is stated in the report of the Talathi and nothing more. What is shocking is the fact that the said panchanama is signed by the Police Patil of Alegaon Phata Village who has himself given an affidavit on stamp paper, copy of which is appended at page Nos. 82-83 denying that he has ever signed the said panchanama. In fact the Police Patil in his affidavit categorically states that as stated in the panchanama no inspection whatsoever of the riverbed or the river or the place which is alleged to have been used by the Petitioner and

other members with him were ever inspected by him and the said panchanama has not been signed by him. Learned SDO by order dated 10.12.2020 called upon the Talathi of Alegaon to inform the basis of panchanama. That letter is appended at page No. 84. In response to that letter after a period of 11 months the Talathi has once again addressed a cryptic letter to the SDO which is not in compliance with the directions contained in the letter. Reliance is placed by the Talathi on the panchanama in the letter which is addressed to the SDO which the author of panchanama has himself denied.

4. On the basis of the above material it is confirmed by the State and its functionaries that Petitioner and other persons have been instrumental in carrying out excavation of unauthorized mineral soil from the riverbed of Bhima river and have transported the same. Insofar as *prima facie* material required for indictment of Petitioner and his associates is concerned, there are no details whatsoever appearing in the report which has been placed before the Competent Authority i.e. Tahsildar and SDO. It is *prima facie* seen that the Tahsildar and SDO both have merely relied upon cryptic letters addressed by the Talathi as Report and Panchanama which are *prima facie* handwritten letters and which do not inspire any confidence of the Court for indictment of Petitioner and levying the penalty under Section 48(7).

5. The provisions of Section 48(7) of MLRC envisages a procedure with respect to preparation of report, giving said report to the Petitioner so that Petitioner can meet the case of the prosecution as it entails substantial penal consequences. Once it is seen that there is a clear defect in the procedure followed by Talathi before the matter could be referred to the Tahsildar and despite the SDO calling upon the Talathi to inform the basis of the impugned action against the Petitioner and the Talathi not complying with the same, this Court is undoubtedly required to step in.

6. Though Mr. Patel learned AGP would persuade the Court to hold in the support of the impugned order, I am not impressed by his submissions. The documentary evidence on record is *prima facie* contrary to the prosecution's case altogether whatsoever.

7. At the outset, it is seen that the entire case of the prosecution is based upon unauthorized excavation of 130 to 150 brass of sand from the riverbed of Bhima river by the Petitioner and his associates. No details whatsoever of the date and time of such activity carried out by Petitioner and or his associates has come on record. No investigation is done. Further panchnama referred to and relied upon by Talathi is signed by Police Patil who has himself denied having prepared the same or having inspected the concerned site. In that view of the matter an arguable case is made out by Mr. Jadhav for interference of

this Court. All three orders passed by the State and its functionaries i.e. order dated 30.08.2018 passed by Tahsildar, order dated 20.06.2022 passed by SDO and order dated 20.04.2024 passed by Collector are not sustainable in law in view of the aforesaid observations and findings. These observations are not merely *prima facie* observations but they go to the root of the matter. Since the entire case of the Talathi is based upon a completely incorrect and false premise, the aforesaid three orders are quashed and set aside. Petition succeeds. Needless to state that the right of the State to take appropriate action against the Petitioner is kept open in appropriate proceedings and strictly in accordance with law and on following the due procedure of law prescribed for taking action under Section 48(7) of MLRC.

8. With the above findings, Writ Petition stands allowed and disposed of.

[MILIND N. JADHAV, J.]

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