

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 273 OF 2025
WITH
INTERIM APPLICATION NO. 439 OF 2026

Anandkumar Agrawal
(since deceased) through LRs.
Nirmal Anand Agrawal & Ors.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

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- Mr. N.V. Walawalkar, Senior Advocate a/w Mr. Suresh M. Sabrad, Mr. Amey C. Sawant, Ms. Neha Paste, Mr. Pratik Sabrad & Ms. Eshwaree Kudalkar, Advocates for Petitioners
- Ms. Sulbha Chipade, AGP for Respondent Nos. 1 to 5
- Mr. Nitin V. Gangal & Ms. Naimita Mestry, Advocates for Respondent No. 6

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 16, 2026

P. C.:

1. Heard Mr. Walawalkar, learned Senior Advocate for Petitioners; Ms. Chipade, learned AGP for Respondent Nos. 1 to 5 and Mr. Gangal, learned Advocate for Respondent No. 6.

2. Present Writ Petition impugns the order dated 16.06.2026 passed by Respondent No. 3 - Sub-Divisional Officer, Vasai (for short "*SDO*"). Copy of the said order is appended at Exh. 'D' (page Nos. 96-100) of the Petition. Proceedings therein are initiated *suo motu* at the behest of Respondent No. 4 - Tahsildar, Vasai under Section 48(7) of the Maharashtra Land Revenue Code, 1966 (for short "*MLRC*").

Impugned order has been passed in favour of State, *inter alia*, calling upon the Petitioners to deposit amount of Rs. 5,39,58,336/- within a period of seven days from the date of the said order and consequential directions. Petition was filed in the year 2025 and after hearing the Petitioners, ad-interim relief was granted in terms of prayer clause (d).

3. Mr. Walawalkar, learned Senior Advocate appearing for Petitioners would submit that if the impugned order is seen, it is revealed that hearing before the SDO has commenced directly pursuant to the decision passed by this Court in Public Interest Litigation (PLI) No. 87/2013, *inter alia*, pertaining to protection of wetlands located to the north of Vasai creek and on the west side of Mumbai-Ahmedabad highway. He would submit that having due regard to the order passed in the PIL and the consequential action taken thereafter, statutory officers of the State have determined the proceedings under Section 48(7) of the MLRC against the Petitioners. He would submit that Petitioners were arrayed as Respondents (प्रतिवादी) before the SDO but it is evident from reading of the impugned order that Petitioners were not heard. Rather he would submit that notice of hearing of the said proceedings initiated *suo motu* by the State under Section 48(7) of the MLRC was not even issued to the Petitioners.

3.1. In view of the aforesaid submissions, this Court passed order on 18.12.2025, *inter alia*, calling upon learned AGP to take instructions and inform whether the notice of hearing was served on the Petitioners or otherwise.

4. Ms. Chipade, learned AGP appear for State and its functionaries i.e. Respondent Nos. 1 to 5. Mr. Gangal, learned Advocate appears for Respondent No. 6 who supports the impugned order. Whatever is the right of Respondent No. 6 is not evident on reading of the impugned order. Be that as it may, both the learned Advocates appearing for Respondents in tandem would submit that delay and laches are writ large on the face of record for the Petitioners to maintain the present Writ Petition filed in the year 2025. They would submit that the impugned order was passed on 16.06.2016 and Petition is filed in 2025 and therefore on that ground alone, Petition does not deserve any hearing.

4.1. Learned AGP on taking instructions submits that notices were issued to the Petitioners for hearing before the learned SDO but since Petitioners were scattered and had different addresses, Petitioners have made grievance that they were not served with the copy of the notices for hearing and from the record it *prima facie* appears to be so.

5. After going through the record, *prima facie*, it appears that insofar Petitioners are concerned, at all places there are only two addresses reflected; one registered office of Petitioner No. 2 i.e. - ABC India Ltd which is shown at P-10, New CIT Road, Kolkata - 700 003, West Bengal and there is also another office of Petitioners at 92, Sheriff-Devi Chalalal Street, Mumbai 03 and the second address is at Bhayander (E) which is a residential address of some of the Petitioners. There is also record to show that Petitioner No. 2 - Company was in 1972 registered in Gauhati, Assam but thereafter the registered office of Petitioner No. 2 was changed and shifted to the State of West Bengal i.e. P-10, New CIT Road, Kolkata - 700 003. One thing is clear on reading the impugned order and that is nowhere it is mentioned that Petitioners were heard by Respondent No. 3. It discusses the case of Respondent No. 3 threadbare and levies penal consequences i.e. payment of fine of Rs. 5,39,58,336/- for carrying out filling on the subject land. Time and again this Court has deprecated such practice. Whenever proceedings under Section 48(7) are conducted by the Competent / Statutory Officers, it is incumbent upon them to ensure that not only the delecting parties are heard but also that all material referred to and relied upon by the Statutory Officers against them is given to them to meet the case of the State.

6. In the present case, it is *prima facie* seen that allegation against the Petitioners is that they have carried out filling of 22482.64 brass of unauthorized soil / debris. Case against the Petitioners is that this is gathered from the report prepared by Respondent No. 4 - Tahsildar which confirms the basis of the impugned order. When said material is relied upon by the State for passing orders having substantial penal consequences, it is incumbent upon the State functionaries to follow the due process of law. It is seen that order passed by Tahsildar (N.A.) dated 04.06.2015 is referred to and and relied upon by the SDO including panchanama dated 11.06.2015 and inspection report dated 09.06.2015. It is therefore incumbent upon the State to ensure that not only the delinquent is put to final notice but he is also given details of the material referred to and relied upon by the Statutory Officers before passing orders in the proceedings under the provisions of 48(7) of the MLRC. *Prima facie* that being absent from reading of the said order and the State unable to place on record the material to show that Petitioners were duly served, impugned order dated 16.06.2016 cannot be sustained. It is therefore quashed and set aside. Needless to state that Respondent No. 3 - SDO shall conduct a fresh inquiry in the proceedings under Section 48(7) with regard to the subject land and give notice to Petitioners along with all relevant material referred to herein above namely the inspection report dated

09.06.2015, panchanama dated 11.06.2016 and report of Tahsildar relied upon by SDO.

7. Learned AGP has raised a grievance that if such order is passed, SDO shall give notice to Petitioners but once again there would be an issue of service. It is seen that Petitioners have registered office at 92, Sheriff-Devi Chalalal Street, Mumbai 03 as stated in the record. Hence, rather than SDO requiring to issue fresh notice, this Court directs Petitioners i.e. Petitioner Nos. 1A to 1C and Petitioner No. 2 - Company to present themselves before the SDO on 04.03.2026 at 12:00 noon along with server copy of this order and place the same before Respondent No. 3 - SDO. Respondent No. 3 - SDO shall take cognizance of this order and shall arrange to give copies of the material referred to and relied upon by SDO as stated herein above within a period of two weeks thereafter. Once Petitioners receive copies of the material, they are permitted to file Affidavit-in-reply to the proceedings filed under Section 48(7) initiated by SDO and the relevant material relied upon by them within a period of four weeks thereafter. Once the same is filed with the SDO, SDO is directed by this Court to determine the proceedings filed under Section 48(7) afresh after giving hearing the Petitioners within a period of eight weeks thereafter. All contentions of Petitioners are expressly kept open. Needless to state that SDO shall not be influenced by any of the

observations and findings made in the impugned order and determine the proceedings filed under Section 48(7) afresh strictly in accordance with law.

8. It appears that there is Special Civil Suit No. 144/2007 (Old Spl. C.S. No. 50/2002) which is pending before the Court of Civil Judge S.D. Vasai at Vasai filed by Petitioners against Respondent No. 6 i.e. client of Mr. Gangal. In fact Mr. Gangal informs the Court that there are five Suits which are filed between the parties. Be that as it may, I am informed that Special Civil Suit No. 144/2007 is decreed in 2017. First Appeal filed against the said decision has been dismissed and Second Appeal is pending. In that view of the matter, learned SDO shall taken into cognizance the aforesaid proceedings while determining the proceedings filed under Section 48(7). Needless to state that the proceedings filed under Section 48(7) shall be determined strictly in accordance with law. Needless to state that Respondent No. 6 shall also be entitled to be heard before the learned SDO in the aforesaid proceedings.

9. One of the joint grievance mentioned and urged by learned AGP and Mr. Gangal is that the impugned order should not be countenanced by this Court because there is an alternate efficacious remedy before the Second Appellate Authority i.e. Revisional Authority under Section 247 read with Schedule (e) of the MLRC. Both the

learned Advocates may be right but in the gross facts of the present case especially when substantive penal consequences are imposed by virtue of the impugned order without even hearing the Petitioners against whom such a drastic order is passed and the Petitioners before me having succeeded in the Suit proceedings and are still fighting a battle in the second appellate proceedings to fructify the decree passed in their favour, intervention of this Court under Article 226 read with Article 227 is much warranted. Therefore the request made by learned AGP and Mr. Gangal stands rejected by this Court.

10. Needless to state that if the final order passed in the proceedings filed under Section 48(7) is adverse to the Petitioners, the same shall stand stayed for a further period of four weeks to enable the Petitioners to take appropriate recourse to law.

11. All contentions of Petitioners, Respondent No.6 and Statutory Officers are expressly kept open.

12. In view of the above directions, Petition is allowed and disposed. Interim Application is also disposed.

[MILIND N. JADHAV, J.]

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