

IN THE COURT NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

APPEAL NO. 156 OF 2024 (WZ)

Rangrao Baburao Gaikwad

Appellant

Versus

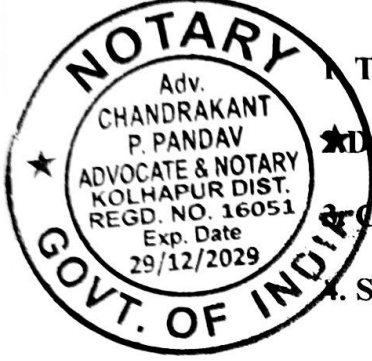
Tahasildar Hatkangale

District Mining Officer, Kolhapur

Chief Conservator of Forest

State of Maharashtra

Respondents



INDEX

Sr.No.	Exhibit	Particulars	Page No.
1	R-1	Copy of Mining Lease dated 21/12/2009	
2	R-2	Copy of Order dated 12/02/2015.	
3	R-3	Copy of order dated 24/07/2015.	
4	R-4	Copy of order dated 24/11/2015 along with copy of notice dated 02/02/2016 and 12/05/2017.	
5	R-5	Copy of Mutation Entry No. 2322 dated 21/12/2021	
6	R-6	Copy of Government Resolution dated 08/02/2022.	
7	R-7	Copy of letter dated 01/07/2024 a/w the Annexures.	

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Yes



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Appellant

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1. Tahasildar Hatkangale
2. District Mining Officer, Kolhapur
3. Chief Conservator of Forest
4. State of Maharashtra

Respondents

AFFIDAVIT-IN-REPLY

ON BEHALF OF RESPONDENT NO. 17 and 18

I, Shri. Sushil Belhekar, Age : 45 years, Occupation – Tahasildar Hatkanagale, District-Kolhapur, do hereby state on solemnly affirmation on behalf of Respondents No. 1 and on behalf of Respondent No. 2 as under :-

1. I say that I have read the Appeal along with its exhibits. I have perused the relevant record maintained by

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Nil

my office I say that, with reference to the subject matter of the present Appeal, and on the basis of the said record, I am filing this Affidavit-in-Reply to the above Appeal. I am filing this Affidavit for the purpose of opposing the Appeal. I say that the contentions, which are not specifically denied by me in this Affidavit-in-reply, should not be construed as an admission on my part. I crave leave of this Hon'ble Court to file additional affidavit, if so required.

2. With reference to Para No. 1 and 2, I say and submit that contents of the Para are true as per pleading.

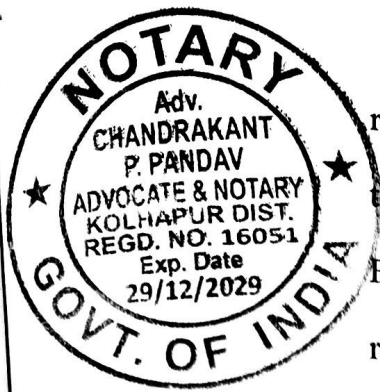
3. With reference to Para No. 3, I say and submit that. The Appellant is challenging order/notice dated 30/08/2024, issued by the Respondent No.1 Tahasildar Hatkanagale, directing the Appellant to deposit an amount of Rs.23,05,97,432/- towards the Environment Damage Compensation, in view of the order passed in Original Application No.101 of 2017 by this Hon'ble Tribunal.

4. With reference to Para No. 4, I say that, it is true as per pleading. The Respondent No.1 is the Tahsildar Hatkanangale. The Respondent No.2 is the District Mining Officer, Kolhapur, responsible for the administration of Mining Activities in the District of Kolhapur. The Respondent No.3 is the Chief Conservator of Forest,

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Nil





responsible for the activities and administration of forest in the Kolhapur district. The Respondent No.4 is the Environment Department of the State of Maharashtra, responsible for framing the policies pertaining to environment in the State of Maharashtra.

5. With reference to Para No. 5, I say and submit that, contents of the Para are partly true. Appellant was granted Mining Lease on 10.11.2009 vide order dated No.Desk/6A/Gau.Kha./SR/101/2009 and Mining Lease Deed was executed on 21.12.2009 for period of five years from 21.12.2009 to 20.12.2014 for Black Stone/Murram Gat No. 630/1A over an extent of A 1.20 R at Village Kasarwadi, Taluka Hatkanangale, Kolhapur. **Herein annexed and marked as Exhibit R-1 is the copy of Mining Lease dated 21/12/2009**

6. With reference to Para No. 6, I say and submit that, contents of the Para are true as per pleading. Environmental Clearance Certificate was issued in favor of Appellant vide dated 14/03/2013.

7. With reference to Para No. 7, I say and submit that, the Mining Permit/Lease granted to Appellant ended on 20/12/2014. Appellant had submitted application dated 16/08/2014 for renewal of mining lease. The said renewal

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application was rejected vide order No.Desk/6A/RR/2405/2015 dated 12/02/2015. **Herein annexed and marked as "Exhibit R-2" is the copy of Order dated 12/02/2015.**

Being aggrieved and dissatisfied on the said order, Appellant had filed Regular Civil Suit No. 224/205 before Ld.Civil Judge Senior Division, Kolhapur. Ld. Civil Judge Senior Division, Kolhapur vide its order dated 24/07/2015 directed Respondents to reconsider the application of the Appellant dated 14/8/2014 for renewal of mining lease in accordance with the provisions of the Maharashtra Minor Minerals (Development and Regulation) Rules, 2013, particularly rules 11, 12 and 95 and dispose of the application within the period mentioned in rule 15(2). **Herein annexed and marked as "Exhibit R-3" is the copy of order dated 24/07/2015.**

As per the directions of Ld.Civil Judge Senior Division, Kolhapur the renewal application filed by Appellant was reconsidered and was rejected vide order No.Desk/6A/RR/2980/2015 dated 24/11/2015. **Herein annexed and marked as "Exhibit R-4" is the copy of order dated 24/11/2015.**

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application was rejected vide order
No. Desk/6A/RR/2405/2015 dated 12/02/2015. Herein
annexed and marked as "Exhibit R-2" is the copy of
Order dated 12/02/2015.

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Appellant had filed Regular Civil Suit No. 224/205 before
Ld. Civil Judge Senior Division, Kolhapur. Ld. Civil Judge
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directed Respondents to reconsider the application of the
Appellant dated 14/8/2014 for renewal of mining lease in
accordance with the provisions of the Maharashtra Minder
Minerals (Development and Regulation) Rules, 2013,
particularly rules 11, 12 and 95 and dispose of the
application within the period mentioned in rule 15(2).
**Herein annexed and marked as "Exhibit R-3" is the copy
of order dated 24/07/2015.**

As per the directions of Ld. Civil Judge Senior
Division, Kolhapur the renewal application filed by
Appellant was reconsidered and was rejected vide order
No. Desk/6A/RR/2980/2015 dated 24/11/2015. **Herein
annexed and marked as "Exhibit R-4" is the copy of
order dated 24/11/2015.**

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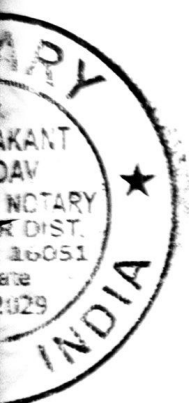
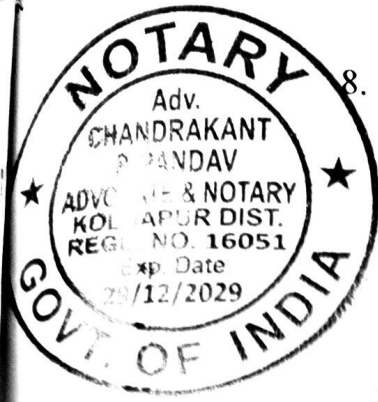
With reference to Para No. 8, I say and submit that,

As per the directions of Ld.Civil Judge Senior Division, Kolhapur the renewal application filed by Appellant was reconsidered and was rejected vide order No.Desk/6A/RR/2980/2015 dated 24/11/2015. and was directed/instructed to stop the mining operations in the said land. Also, written instruction vide notice dated 02/02/2016 was issued to Appellant by Respondent No. 1 to stop the mining operation in said land and no excavation/mining should be carried out in said Gat Number and no transportation of same shall be done and if it was found out that any excavation and/or transportation has been carried out by Appellant Criminal/Penal action will be taken against Appellant. **Herein annexed and marked as "Exhibit R-4" is the copy of notice dated 02/02/2016.**

I say and submit that, again vide notice dated 12/05/2017 Tahsildar Hatkanagale directed Appellant to stop the mining operation in said land and no excavation/mining should be carried out in said Gat Number and no transportation of same shall be done and if it was found out that any excavation and/or transportation has been carried out by Appellant Criminal/Penal action will be taken against

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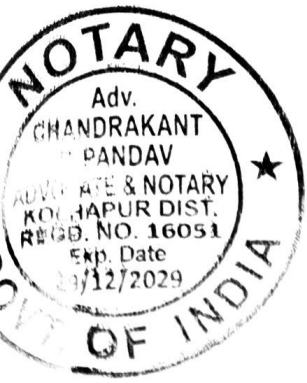
Appellant. Herein annexed and marked as "Exhibit R-4" is the copy of notice dated 12/05/2017.

9. With reference to Para No. 9, I say and submit that, contents of the Para are not concerned with present Respondents. Hence, No comments.
10. With reference to Para No. 10, I say that, contents of the Para are true as per pleading. Original Application No. 101/2017 was filed against present Appellant before this Hon'ble Tribunal against illegal mining activities carried out by Appellant in said land. This Hon'ble Tribunal vide its judgment and order dated 20/12/2021 directed Respondents to take action against persons who are responsible for illegal mining. The said Judgment and order is just, proper and legal.
11. With reference to Para No. 11, I say and submit that, as per the directions of this Hon'ble Tribunal, the said land was remarked as "Reseved Forest" and same was entered vide Mutation Entry No. 2322 dated 21/12/2021. **Herein annexed and marked as "Exhibit R-5" is the copy of Mutation Entry No. 2322 dated 21/12/2021.**

Further as per directions issued by the National Green Tribunal, the Government of Maharashtra has constituted a Joint Committee to ascertain the extent of damage to the

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environment, restoration plan to recover the fine from the persons who have taken illegal mining authority was constituted vide G.R. dated 08.02.2022. **Herein annexed and marked as "Exhibit R-6" is the copy of Government Resolution dated 08/02/2022.**

The Joint Committee consisting of Chief Conservator of Forest of Maharashtra State as a Chairman, Collector Kolhapur, Principal of State Pollution Board, Mumbai, Additional Director of Pollution Board, Regional officer of Maharashtra Pollution Control Board, Kolhapur. The said Joint Committee perhaps has calculated the amount of Environmental Compensation and it was communicated to Divisional Commissioner by State Government. **Herein annexed and marked as "Exhibit R-7" is the copy of letter dated 01/07/2024 a/w the Annexures.**

Further, Collector Kolhapur vide its letter No.Desk/6A/RR/851/2024 dated 01/07/2024 directed to Respondent No. 1 to take action and to recover amount of Rs.144,22,17,885/- from 13 miners who are responsible for 1256875 Brass illegal mining to towards compensation for Environmental Damage in Gat No.630 in village Kasarwadi. Further, it was found that, Out of Gat No. 630/1A 2,28,713 Brass of minor minerals were excavated/mined illegally by

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13 miners. Out of which Appellant has excavated/mined 2,00,963 Brass of minor minerals illegally. Therefore, Multiple factor for calculation of Environmental Compensation is as under –

Total Amount of Environmental Compensation	=	Multiple
Total Illegal Excavation/Mining	=	Factor
Rs.144,22,17,885/-	=	1147.46
1256875 Brass		

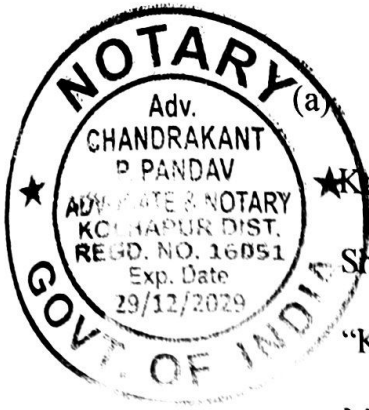
Therefore, 1147.46 x 2,00,963 (Illegible Excavation/Mining) = Rs.23,05,97,432/-. Respondent No. 1 issued recovery order/notice No.Minor Minerals/NGT/Kavi-408/2024 dated 30/08/2024 and directed Appellant to deposit Rs.23,05,97,432/- in Government Account towards environmental compensation for illegal mining done in said Gat Number. Therefore, Appellant has filed this present Appeal challenging the said order/notice dated 30/08/2024.

12. With reference to Grounds (I) to (XIV), I say and submit that, contents of the Grounds are false, frivolous and misleading to this Hon'ble Tribunal. Present Respondents Specifically denies every averment made by Appellant in said Grounds.

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(Signature)





The Subject Land bearing Gat No. 630 in village Kasarwadi was originally part of Princely State of Shri. Shahu Maharaj as "Sheri Land". Further these lands became "Khalsa", Thereafter, said land was under possession of Maharashtra Government as "Sarkari and Gairan Lands". In the year 1953 these land was declared as Reserve Forest by Agriculture and Forest Department as per the provisions of Indian Forest Act section 29, 4 and 20 vide Gazette dated 20/11/1953. Though the said lands were declared as Reserve Forest in year 1953, Forest Department had not taken any steps to take possession of the said lands until year 2021. Till 2021 these whole lands were under the possession of Maharashtra Government as "Sarkari and Gairan Lands".

(b) Meantime, area adm. H -20 R out of Gat No. 630/1A was granted on lease to Appellant for mining of Black Stone/Murram, for period of five years from 21.12.2009 to 20.12.2014. The said lease ended on 20/12/2014. Also, renewal application by Appellants were rejected vide orders dated 12/02/2015 and 24/11/2015 respectively. Since then, no lease permission was granted in favour of Appellant by Respondents till date.

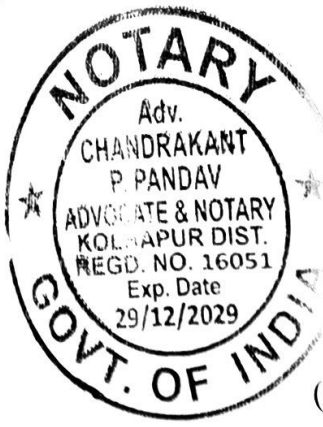
(c) Notices dated 02/02/2016 and 12/05/2017 were issued to Appellant by Respondent No. 1 to stop the mining

operation in said land and no excavation/mining should be carried out in said Gat Number and no transportation of same shall be done and if it was found out that any excavation and/or transportation has been carried out by Appellant Criminal/Penal action will be taken against Appellant.

- (d) Further, Original Application No. 101/2017 was filed against present Appellant before this Hon'ble Tribunal against illegal mining activities carried out by Appellant in said land. This Hon'ble Tribunal vide its judgment and order dated 20/12/2021 directed Respondents to take action against persons who are responsible for illegal mining.
- (e) As per the directions of this Hon'ble Tribunal, the said land was remarked as "Reserved Forest" and same was entered vide Mutation Entry No. 2322 dated 21/12/2021. Further as per directions issued by the National Green Tribunal, the Government of Maharashtra has constituted a Joint Committee to ascertain the extent of damage to the environment, restoration plan to recover the fine from the persons who have taken illegal mining authority was constituted vide G.R. dated 08.02.2022. The Joint Committee consisting of Chief Conservator of Forest of Maharashtra State as a Chairman, Collector Kolhapur,

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Principal of State Pollution Board, Mumbai, Additional
Director of Pollution Board, Regional officer of Maharashtra
Pollution Control Board, Kolhapur.

(f) Further, Collector Kolhapur vide its letter dated 01/07/2024 directed to Respondent No. 1 to take action and to recover amount of Rs.144,22,17,885/- from 13 miners who are responsible for illegal mining towards compensation for Environmental Damage in Gat No.630 in village Kasarwadi. Further, it was found that, Out of Gat No. 630/1A 2,28,713 Brass of minor minerals were excavated/mined illegally by 13 miners. Out of which Appellant has excavated/mined 2,00,963 Brass of minor minerals illegally. Therefore, Respondent No. 1 issued recovery order/notice No.Minor Minerals/NGT/Kavi-408/2024 dated 30/08/2024 and directed Appellant to deposit Rs.23,05,97,432/- in Government Account towards environmental compensation for illegal mining done in said Gat Number. The said notice is just, proper and legal.

13. Alternate remedy is available to present Applicants before competent authority.

14. In the light of the facts and circumstances mentioned hereinabove, I say that Petitioner is not entitled for any relief as prayed in the Petition and Petition filed by the Petitioner

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is without any foundation and devoid of any merit and same
deserves to be dismissed with costs.



DEPONENT

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VERIFICATION

I, Shri. Sushil Belhekar, Age : 45 years, Occupation -
Tahasildar Hatkanagale, District-Kolhapur, do hereby state on
solemnly affirmation on behalf of Respondents No. 1 and on behalf
of Respondent No. 2, that whatever stated herein above is true to
the best of my knowledge and based upon the information derived
from the official records available to me.

Solemnly affirmed at Mumbai

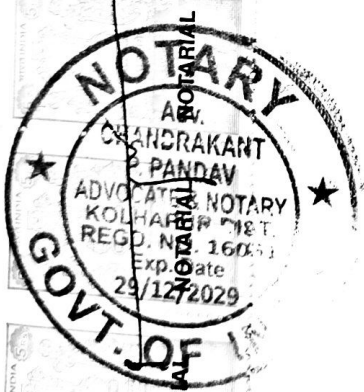
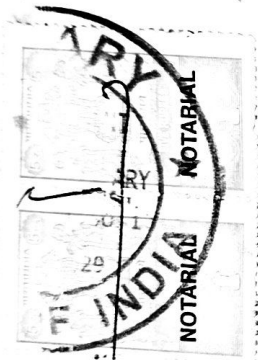
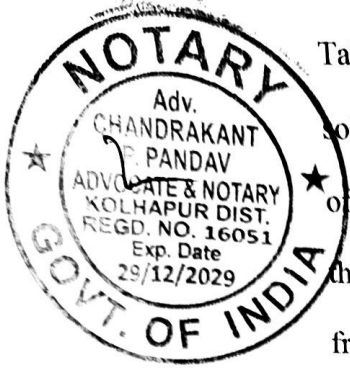
This day of January, 2025

DEPONENT

I Identify the Deponent

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SOLEMNLY affirmed before me
by *Sushil Belhekar*
Who is identified before me
by *A.P. Hatkanagale*
Whom I personally know
This *21* day of *Jan* 2025



Signature Before Me
21/01/25

Adv. Chandrakant P. Pandav
Advocate & Notary Public
Kolhapur, Dist. Kolhapur.
Mob. No. 9011843747

Notary Regi. Sr. No *87*

Date *21/01/2025*