

**S. S. Hussain** I.A.S. (Ex)  
Chief Executive Officer

Ref. No. MCHI/CEO/13-14/243

December 18, 2013

To,  
**Shri Sanjay Deshmukh (I.A.S.)**  
Collector & District Magistrate,  
Mumbai Sub-Urban District  
Government of Maharashtra  
Mumbai - 400 051

Dear *Shri Deshmukh,*

*[Signature]*  
19/12/13  
लिपिक  
जिल्हाधिकारी  
मुंबई उपनगर जिल्हा

You may be aware that MCHI-CREDAI has filed a Writ Petition No. 6702 of 2011 on 8<sup>th</sup> August 2011 in Bombay High Court, challenging "Royalty being charged on the developers". The Hon'ble Court passed an Order dtd. 05<sup>th</sup> September 2011, admitted the Petitions and granted ad-Interim order in the said Petition by giving reasons (Copy enclosed). In view of this order, further proceedings are stayed and there is no need to pay the royalty on excavation u/s. 48. of MLR Code to the State Government.

But it has been observed that some officers of Revenue Department are not following the orders given by Bombay High Court and internal orders issued by Revenue and Forest Department to all collectors, in compliance of that order. The Royalty and Penalty are being charged with different interpretations.

It is observed that in many areas, such as Mumbai Sub-Urban District, particularly, the revenue machinery on the field level is taking stringent actions against the excavation being done by the Real Estate Developers and charging Royalty and Penalty for the same, in spite of permissions. This is happening in many cases like project Rising City by Rare Townships Pvt. Ltd., Keystone Developer Pvt. Ltd & Gundecha Builders.

They are naturally aggrieved by the actions. This point was also taken up during the meeting with Hon'ble Revenue Minister as well as with the Additional Chief Secretary, Shri Swadheen Kshatriya. It was told to us that necessary directions have been issued to all the collectors for not taking any coercive/stringent actions against the MCHI

Members as there was ad-interim order by the Hon'ble High Court, Bombay. The relevant meeting notes as well as copy of the letter from the revenue department is enclosed for your necessary information and action to stop and prevent such measures being taken by your officers in spite of the High Court Stay please.

I would also like to personally come and discuss this issue along with you as our Members are widely affected by this action!

*With kind regards,*

Yours *sincerely*




(S. S. Hussain)

- Encl: (1) High Court Order,  
(2) Order of R & FD of GOM,  
(3) Minutes of Meeting with Revenue Minister,  
(4) Letter to Revenue Minister,  
(5) Letter of Adv. Uday Warunjikar,  
(6) Letter of Rising City Developer,  
(7) Letter of Addl. Collector, Mumbai Sub-Urban to Rising City Developer.

To,  
Shri Sanjay Deshmukh (I.A.S.)  
Collector & District Magistrate,  
Mumbai Sub-Urban District  
Government of Maharashtra  
Admn. Bldg., 10th Floor,  
Govt. Colony, Bandra (E),  
Mumbai - 400051

CC to:  
Shri Swadheen Kshatriya (I.A.S.)  
Additional Chief Secretary, (Revenue)  
Revenue & Forest Department  
Govt of Maharashtra,  
World Trade Centre, 32<sup>nd</sup> Floor,  
Cuffe Parade, Mumbai - 400005

  
19/12/13  
लिपिक  
अमुस (महसूल)  
महसूल व वन विभाग,  
मंत्रालय, मुंबई



## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## APPELLATE SIDE

WRIT PETITION NO.6702 OF 2011

Maharashtra Chamber of Housing Industry &amp; Ors. : Petitioners

V/s.

The State of Maharashtra &amp; Ors. : Respondents

....

Mr.Uday P. Warunjikar for the petitioners.

Mr.V.S.Gokhale, Asstt. Govt. Pleader for respondent nos.1 to 3.

....

CORAM : D.D. SINHA &amp; R.Y.GANOO, JJ.

DATE : SEPTEMBER 05, 2011.

P.C.:

Heard the learned counsel for the petitioners and the learned Asstt. Govt. Pleader for the respondent nos.1 to 3.

2. The petitioners have challenged the notices issued by the respondent under section 48(7) of the Maharashtra Land Revenue Code, 1966 whereby the petitioners were called upon to show cause why the amount mentioned in the respective notices should not be imposed as royalty and be recovered from the petitioners.

3. At the outset, the counsel for the petitioners has contended that similar/identical challenge was raised by the petitioners in Writ Petition No.7390 of 2010 and other connected Petitions. This Court vide order dated 13.4.2011 admitted the petitions and granted ad-interim order in the said petition by giving reasons. The counsel for the petitioners has submitted that since the issue involved in the present Petition being identical, similar order may kindly be passed, including grant of interim relief.

4. The learned Asstt. Govt. Pleader has submitted that the petition is directed against the show cause notice issued by the respondents under section 48(7) of the Maharashtra Land Revenue Code, 1966 and, therefore, it is open for the petitioners to file their reply to the show cause notice which would be considered by the authorities and, thereafter, would pass appropriate orders and if the petitioners are aggrieved by the same, it will be open for them to challenge the said order/s. At this stage, we have asked the learned Asstt. Govt. Pleader whether the issue involved and challenge raised in both these Petitions is identical or otherwise. However, the learned Asstt. Govt. Pleader is unable to throw any light on this aspect. In the instant case, the counsel for the petitioners has made a categorical statement that the issue involved and challenge raised in the

present Writ Petition and in Writ Petition No.7390 of 2010 is identical in nature and Writ Petition No.7390 of 2010 was already admitted by this Court and also granted interim relief. There is no reason for this Court to disbelieve the statement made by the learned counsel for the petitioners.

5. Hence, Rule.

Interim relief in terms of prayer clause (D).

To be heard along with Writ Petition No.7390 of 2010 and other connected Writ Petitions.

The learned Asstt. Govt. Pleader waives notice on behalf of the respondent nos.1 to 3.

(D. D. SINHA, J.)

(R.Y. GANOO, J.)



क्रमांक : गौखनि १०/२०११/प्र.क्र. ६१८/ख

महसूल व वन विभाग

मंत्रालय, मुंबई ४०००३२.

दिनांक : १७/११/२०११

प्रति,

सर्व जिल्हाधिकारी.

विषय : रिट पिटिशन क्र. ६७०२/२०११

महाराष्ट्र चेंबर्स ऑफ हाऊसिंग

वि

महाराष्ट्र शासन व इतर

मुंबई उपनगर जिल्ह्यातील इमारतीच्या बांधकामासाठी भूखंडाचा विकास करताना खोदकामासाठी वापरण्यात येणाऱ्या गौण खनिजापोटीच्या प्रकरणात जिल्हाधिकारी, मुंबई उपनगर जिल्हा यांच्याकडून महाराष्ट्र चेंबर्स ऑफ हाऊसिंग इंडस्ट्री (MCHI) च्या सदस्यांना महाराष्ट्र जमीन महसूल अधिनियम, ४८ (७) नुसार नोटीसा बजावण्यात आल्या आहेत. त्याविरुद्ध महाराष्ट्र चेंबर्स ऑफ हाऊसिंग इंडस्ट्री (MCHI) च्या सदस्यांनी मा. उच्च न्यायालयात याचिका क्र.६७०२/२०११ दाखल केली आहे. या याचिकेत दि.५.९.२०११ रोजी सुनावणी होऊन न्यायालयाने अंतरीम स्थगिती दिली असल्याने न्यायालयाचे आदेश विचारात घेता अशा प्रकारची, स्वागित्वधन वसुली बाबतची प्रस्तावीत कार्यवाही बाबत मा. उच्च न्यायालयाच्या आदेशानुसार कार्यवाही करण्यात यावी, ही विनंती.

(र. व. नलवडे)

उप सचिव

महसूल व वन विभाग

सोबत : न्यायनिर्णयाची प्रत

Minutes of the meeting with  
Hon'ble Shri Balasaheb Thorat,  
Minister for Revenue & Khar Lands,  
Government of Maharashtra  
Held on October 9, 2013 at Mantralaya at 6:15 P.M.

Members from Government of Maharashtra:

Shri Balasaheb Thorat - Minister for Revenue & Khar Land

Dr. Pramod Borse - Private Secretary to Hon'ble Minister for Revenue & Khar Land

Members attended from MCHI-CREDAI:

Shri Sanjay Chhabria - Committee Member

Shri Jayesh Shah - Committee Member

Shri Anand Mane - Youth Member

Shri S. S. Hussain - Chief Executive Officer

Shri Avadhoot Rane - General Manager (Liaison)

#	Points	Decision taken by Hon'ble Revenue Minister
1	Automatic NA	<ol style="list-style-type: none"><li>1. Land title (status) should be checked up by Revenue Department.</li><li>2. Land which are including in class 'A' category shall count on priority for forwarding proposal of Automatic NA.</li><li>3. 21 types of approvals which are usually used as parameter while clearing the NA process should be totally dispensed with.</li><li>4. For BKC Land Issue about NA, CEO of MCHI-CREDAI informed Hon'ble Minister that it is rather surprising that BKC land area is used for urban and commercial purpose for long time and still revenue department is treating it as agricultural land and insisting for temporary NA permission for commercial practices. So Hon'ble Minister asked him to give details for the same to expedite this issue.</li></ol>
2	Stamp Duty Registration & Ready Reckoner 2013	<ol style="list-style-type: none"><li>1. As per request from MCHI-CREDAI Hon'ble Minister assured to look into the matter in minimizing 20% rate in new Ready Reckoner 2014.</li><li>2. Regarding the same it has been decided that MCHI-CREDAI will forward a revised representation to Hon'ble Minister with reference to the suggestions/ objections submitted to Deputy Director (Valuation) of</li></ol>



		Town Planning Department of Mumbai Region.
3	Royalty Excavation	<ol style="list-style-type: none"> <li>1. CEO, MCHI-CREDAI and Shri Sanjay Chhabria informed Hon'ble Minister about non compliance of Government Orders and Court Orders by lower level officers of Collector offices in MMR jurisdiction regarding royalty excavation.</li> <li>2. The Hon Minister directed his Private Secretary Dr. Pramod Borse to put up the circulars and orders in this connection issued earlier and orders for strict compliance/implementation of the earlier circular should be issued.</li> </ol>
4	Implementation of GR No NAP/0711/CNO-82/L5 Dated 10/8/2011	The same may be brought to the notice of the Hon. Minister for his consideration and order



Friday, November 11, 2011

**Shri Balasaheb Thorat**

*Hon'ble Revenue Minister,*

Govt. of Maharashtra,

(504A), Mantralaya, Mumbai - 400032

Sub: **Royalty for Excavation**

Respected Sir,

Greeting from Maharashtra Chamber of Housing Industry (MCHI)

The Hon'ble High Court by Order dt. September 5, 2011 admitted the petitions and granted ad interim Order in the said petition by giving reasons. In view of this Order the further proceedings are stayed & there is no need to pay the Penalty. Royalty etc under MLR Code to the Government. All the concerned departments are not following the order is given. MCHI by their advocate's letter dated 21<sup>st</sup> September, 2011 have informed the revenue department and all the collectors of MMR region, to implement and comply the order of Hon'ble High Court. Inspite of the intimation, the concerned departments are not complying the court's order and insisting for payment of royalty charges. Copy of order and advocate's letter are annexed.

In view of these facts we hereby request you to look into this issue and instruct all the collectors to comply with Hon'ble court's order

With respectful regards,  
For Maharashtra Chamber of Housing Industry

**Paras Gundecha**

*President*

Mobile: 98210 92439

Encl:

1. Copy of Court Order
2. Advocate's Letter to Principal Secretary, Revenue, and Collectors in MMR.

## Uday Prakash Warunjikar

B.S.L., L.L.M., D.T.L., D.L.L.

Court Room No. 18, A. A.W.I. High Court, Mumbai 400020 Ph: 022-22632498, 22672880  
Office & Res: 501/502/205, C Wing Brahmasiddhi Co-op Hsg. Society, Next to Bhupesh Gupta  
Bhavan, Appasaheb Marathe Marg. Off. Sayani Rd. Prabhadevi, Mumbai 400025, Ph. 022  
24383836/37 Telefax: 022-24383835

PUNE: Sarvodaya Mudrannalaya Tapkit Lane, Bhdhwar Peth, Pune 411002  
TIME: Sunday (By Appointment) 10.a.m. to 1.00 p.m. Ph(O) 020-24457694 @ 020-24345128  
Email: [udaywarunjikar@rediffmail.com](mailto:udaywarunjikar@rediffmail.com)

Date: 27<sup>th</sup> September, 2011

To,

1) The Principal Secretary, Revenue  
Govt. of Maharashtra  
Mantralaya, Mumbai - 400032

2) The Collector, Mumbai City  
Mumbai City Collectorate,  
Old Custom House,  
Fort, Mumbai - 400001.

3) The Deputy Collector, Mumbai City  
Mumbai City Collectorate,  
Old Custom House,  
Fort, Mumbai - 400001.

4) The Collector, Thane  
Zilla Adhikari Karyalay, Thane  
Pin Code 400601

5) The Collector, Raigad  
Zilla Adhikari Karyalay, Raigad  
Alibag Pin Code 402201



Ref: Writ Petition No. 6702 Of 2011  
Maharashtra Chamber of Housing  
Industry & Ors.

Petitioners

V/s  
The State of Maharashtra & Ors.

Respondents

Sir,

I am concerned for the petitioner in the above referred petition. Please find enclose copy of the order passed by the Hon'ble High Court for your record and perusal. The aforesaid writ petition was filed against the State of Maharashtra & Ors. who were represented by the learned Assistant Government Pleader in the Hon'ble High Court. No.2, 3, 4 & 5 are subordinate to No.1 of you and are part & parcel of the state of Maharashtra.

Considering all the facts the Hon'ble Court has granted interim relief in terms of prayer in clause (D) which is mentioned here in below:

"During the pendency of the Writ Petition, be pleased to restrain the Respondent herein from exercising their power under section 48 of the MLR Code against the member of petitioner Nos. 1 to 6 herein inclusive of Petitioner Nos. 7 & 8 and further be pleased to stay the further proceeding based on the show cause notice dated 2.5.2011 and 4.6.2011 ( Exh. M & O), issued by Respondent by Respondent No. 2 to Petitioner No. 7."

You are requested to note the effect of the order and you are also requested to comply with the same.

Thanking you

Yours Faithfully

Uday Prakash Warunjikar  
Advocate





## अपर जिल्हाधिकारी, मुंबई उपनगर जिल्हा

क्र. सी/कार्या-IV/गौखनि/एमएनएल/एसआर-५७२/२०१३-१४  
दिनांक १०/१२/२०१३

प्रति

रेअर टाऊनशिप प्रा.लि.

सी.टी.एस.नं. १९४,

पी.वी.डी. ग्राऊंड,

घाटकोपर मानखुर्द लिंक रोड,

घाटकोपर (पु) मुंबई - ४०० ०८९

विषय :- मौजे घाटकोपर न.भु.क्र. १९४ ब या मिळकतीवरील  
गौण खनिजे उत्खननाबाबत

संदर्भ :- १) आपले पत्र क्र. ६०८६/sale-corr/२०१३/०३/E६  
दिनांक ०७/१०/२०१३

संदर्भित पत्रान्वये आपणांस कळविण्यात येते की सदर पत्रासोबत सादर केलेल्या मा. उच्च न्यायालय, मुंबई यांचेकडे दाखल केलेला रिट-पिटीशन क्र. ६७०२/२०११ या याचिकेसंदर्भात दिलेल्या निकालामध्ये मुंबई, गौण खनिज अधिनियम १९५५ अंतर्गत इमारतीच्या पायाच्या खोदकामासाठी करण्यात येणा-या उत्खननावर आकारण्यात येणा-या स्वामित्वधन, भूपृष्ठभाटक इत्यादी वसुल करणेबाबत कोणत्याही प्रकारचा प्रतिबंधात्मक निर्णय दिलेला नाही. तथापि उक्त मिळकतीवर गौणखनिज परवान्यासाठी आवश्यक असणा-या कागदपत्रांची यादी सोबत जोडत आहोत. त्यानुसार विनंती अर्ज या कार्यालयास सादर केल्यास मुंबई गौण खनिज उत्खनन नियम १९५५ चे प्रकरण चार नियम २९ व ३१ अन्वये आपल्या अर्जावर प्रकिया करून उपरोक्त नियमातील उपनियम १८, १८ (३) व २९ अन्वये वेळोवेळी सुधारित दराने राजशुल्क, भूपृष्ठधारक, अर्ज शुल्क इ. खनिज महसूल आकारून आपणास आवश्यक तेवढ्या परिमाणासाठी गौण खनिजे उत्खननासाठी परवाना मंजूर करण्यांत येईल.

मा. उच्च न्यायालय, मुंबई यांचेकडे मे. एम.सि.एच.आय व इतर आणि मे. मेफेअर हौसिंग व इतर यांनी दाखल केलेल्या रिट पिटीशन क्रमांक ६७०२/११ मध्ये दिनांक ५ सप्टेंबर २०११ रोजी खालील प्रमाणे निकाल देण्यांत आलेला आहे.

**RisingCity**

6086/Sale- Corr/2013/03/E6

07 Oct 13

To,

✓ The Collector,  
Mumbai Suburban District,  
10<sup>th</sup> Floor - Administrative Building,  
Opp. Chetna College, Kherwadi, Bandra (E)  
Mumbai - 400 051

**SUB: Excavation work on Development of State overnment land on CTS  
No. 194B at Ghatkopar under Private Participation**

RE: Your Notice dated 08.11.2012 under section 48(7) of Maharashtra Land Revenue Code 1966 in respect of unauthorized excavation and Royalty ("Said Notice")

Dear Sir,

We hereby state that we intend to develop the aforesaid property and have obtained building permission along with IOD dated 09.07.2011 in favor of our company. Annexed hereto as "**Annexure 1**" is the copy of IOD dated 09.07.2011. We would like to intimate you that we intend to start the excavation for our project on 6<sup>th</sup> October 2013.

We would like to draw your kind attention to the writ petition (WP. 6702/2011) that is filed by the Maharashtra Chamber of Housing Industry - MCHI before the Hon'ble High Court (**Annexure 2**), by its order dated 05<sup>th</sup> September 2011 Hon'ble High Court had granted interim relief in terms of prayers Clause (D) of the petition i.e. that "the state Government of Maharashtra not to take any coercive steps to recover the penalty and royalty which is the subject matter of the petition pending the final hearing and disposal"

We would also like to draw your attention to the Hon'ble High Court order dated 13th April 2011 in several other Writ Petitions bearing No. 7390 of 2010 & Ors (**Annexure 3**) in respect of the same subject matter, the court has granted the same interim relief and had continued the stay with directions not to take any coercive steps to recover the penalty and royalty.

P.T.O

**Rare Townships Pvt. Ltd.**

(Formerly known as Infrastructure Ventures India Pvt. Ltd.)

CTS No. 194 B, P.W.D. Ground, Ghatkopar-Mankhurd Link Road, Ghatkopar (E), Mumbai-400 089. Tel: 99308

01688-89



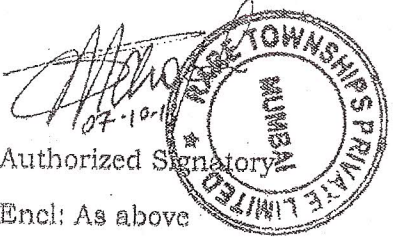
We would like to further intimate that the Principal Secretary, "Revenue and Forest Department" - Mantralaya vide its letter (**Annexure 4**) dated 17<sup>th</sup> November 2011 had intimated all the collectors about the writ petition No.6702 of 2011 between Maharashtra Chamber of Housing Industry & Ors. and The State of Maharashtra along with the interim stay vide its order dated 05.09.2011 and further directed them to act according the order passed by the Hon'ble High Court in the said Writ Petition No. 6702 of 2011.

Considering the above facts, we humbly request your good office not to recover royalty or obstruct us and adopt any coercive step as has been duly instructed by Hon'ble High Court and Supreme Court in its respective Orders. We assure you that we shall abide by whatever decision is taken in the said Writ Petition No.6702 of 2011 & 7390 of 2010 in respect of the subject matter under dispute, and to abide by final decision taken by Hon'ble Supreme Court.

Requesting your kind cooperation in the matter.

Thank you,  
Yours faithfully,

For Rare Townships Pvt. Ltd.

  
Authorized Signatory  
Encl: As above