## To

The Executive Engineer (BP)(WS), R/Ward, M.C.G.M, "C" Wing, Sanskruti Complex, 90 ft. D.P. Road, Near St. Lawrence School, Kandivli (E), Mumbai 400101.

## Sub: Development of land bearing C.T.Š. No. 1448/8A of Village Eksar, TaI. Borivli at Borivli (West)

Ref: Your letter bearing no CHE/A-4541/BP(WS)/AR dt.14.07.2014
Dear Sir,
With reference to your letter mentioned above, we would like to clarify as under -

In this case, a notice dated 14.10.2013 was received from the office of Tahsildar, Borivli asking us to pay Rs. 21.58 crores worked out on frivolous complaint by one Sh. Ravindra Chiplunkar, without verifying the facts of the case. A copy of the notice is enclosed.

In response to the same, we had raised our objection on issuing notice to us without site verification and documents vide our letter dated 02.12.2013. We had asked for a date for inspection and measurement on site. This is to further inform that, a stay is granted by the Hon'ble High Court in Writ Petition no 7390 of 2010 alongwith Writ petition no 8019 of 2010, for initiating disciplinary action under section 48 of Maharashtra Land Revenue Code 1966 in such cases. Another writ is filed by MCHI u/no 6702 of 2011 and the Hon'ble High court has granted stay for demanding such payments and taking any disciplinary action under section 48 of MLRC, 1966. A circular to that effect has also been issued by the Deputy Secretary, Revenue \& Forest Deptt on 17.11.2011. A copy of our said letter, Hon'ble High court's order, circular of R \& F deptt and MCHI's letter are enclosed.

Thereafter, we received a letter it. 12.12.2013 from the office of Tahsildar informing us about the site visit for verification. A copy of the same is enclosed. However, no officer from Tahsildar office has till date verified the facts of the case. A letter was also submitted to EEBP(WS-2) in the month of March 2014, submitting therewith the details of excavation done. We have received royalty permission for

# VINITA ESTATES PRIVATE LIMITED 

301, Platina, Plot No. C-59, G-Block, BKC, Bandra (East), Mumbai - 400051.
Tel.: 67308400 • Fax: 67308401
Website: www.thewadhwagroup.com

30230 brass and the excavated quantity is less than that permitted. A copy of the letter and table showing excavation details submitted therewith are enclosed.

Sir, we have already approached the Tahsildar office to review and forward a clarification to us with a copy to you and we will submit the same at the earliest. In view of above clarification, we request you not to entertain any frivolous complaints made by unscrupulous elements and stall our development.

Thanking you,
Yours faithfully,
For Vinita Estates Pvt Ltd


Authorised Signatory

## तहसिलदार बोरीवली यांचे कार्यालय

नाटकवाला लेन, डॉ. न. रा. करोडे मार्ग, एस. व्ही. रोड, बोरीवली (प.) मुंबई- ४०००९२, दू. क्र. २८०७५०३४

## नोटीस

प्रति,
श्री. विजय व्ही. वाधवा
मे. विनिता इस्टेट प्रा. लि.
४२-ए, बासूकमल,
१४ वा रस्ता, बांद्रा (प)
मुबई-૪०० ०५०


क्रमांक :-तह/बोरी/गौ.ख./टे-३/कावि-१०३७/१३ दिनांक :-१४/२०/२०१३


विषय :-गौखनिज :-मुंबई उपनगर जिल्हा
मौजे-एक्सर, ता.बोरीवली येथील स.नं.२०४/५, २०५/Q/२, २०५/३/२, २०५/५ न.भू.क्र.१૪૪८/८/अ, १૪૪८/८/डी मधून अनधिकृत उत्खननाबाबत.

संदर्भ :- मा. अपर जिल्हाधिकारी, मुंबई उपनगर जिल्हा यांचेकडील पत्र क्र. सी/कार्या-४/गौखनि/कावी-२८७/२०१३ दि. ५/६/२०२३

श्री. रविंद्र चिपळूणकर यांनी दि. ४/५/२०१३ रोजी मा. जिल्हाधिकारी, मुंबई उपनगर जिल्हा यांचेकडे केलेल्या तक्रारीच्या अनुषंगाने मंडळ अधिकारी बोरीवली यांचे मार्फत चौकशी केली असता, मौजे-मागाठाणे, ता.बोरीवली येथील स.नं. २०४/५, २०५/R/२, २०५/३/2, २०५/५ न.भू.क्र. १४४८/८/अ, १४४८/८/डी या मिळकतीमध्ये आपण गौण खनिजाचे एकूण ९०,००० ब्रास एवढे खोदकाम केलेले आहे. सदर खोदकामाबाबत मा. जिल्हाधिकारी, मुंबई उपनगर जिल्हा यांचेकडून २९९८० ब्रासची परवानगी घेतल्याचे दिसून आले. तथापी जागेवर मा. जिल्हाधिकारी, मुंबई उपनगर जिल्हा यांनी दिलेल्या परवानगीच्या व्यतिरिक्त एकूण ६००२० ब्रासचे अनधिकृत उत्खनन केल्याचे निर्दशनास आले आहे.

आपण उपरोक्त परिमाणासाठीचे अनधिकृतरित्या उत्बनन केलेले आहे आणि यासाठी मुंबई गौण खनिज उत्खनन नियम १९५५ चे उपनियम २९ आणि शासनाच्या महसूल व वनविभागाच्या

निर्णय क्र.गौण खान/२०/०२०६/प्र.क्र.५७/ख दि.१५/२२/२००६ अन्वये ६००२० ब्रासच्या उत्खननाची कोणत्याही सक्षम अधिका-याची परवानगी घेतलेली नाही. ज्या अर्थी आपण उपरोक्त जमीनीवर गौण खनिजाचे अनधिकृत उत्खनन केल्याचे प्रत्यक्ष दर्शनी दिसून आलेनुसार महाराष्ट्र जमीन महसुल अधिनियम १९६६ चे कलम ४८ (७) (८) अन्वये दंडनिय कारवाईस पात्र ठरत आहात:

त्या अर्थी आपण महाराष्ट्र जमीन महसूल अधिनियम १९६६ चे नियम ४८ (७) (८) प्रमाणे अनधिकृत गौणखनिजाच्या उत्खननावर खालील प्रमाणे दंडनिय कारवाई का करण्यात येऊ नये याबाबत खुलासा करणेबाबत आपणांस एक संधी देण्यात येत आहे.
१. अनिधिकृतरित्या उत्बनन केलेल्या गौण खनिजाचे परिमाण -६००२० ब्रास
२. गौण खनिज "साधी माती / मुरूम" चा दर (डिएसआर रेट प्रमाणे)
३. बाजार मुल्याच्या तीन पट दंड (६००२० ब्रास X १९३२ रू. X ३)

- रू. ११३२ प्रती ब्रास
- रू. २०,३८,२७,९२०/-
४. एकूण ६००२० ब्रास परिमाणावरील स्वामीत्वधन रू. २०० ब्रास प्रमाणे - रू. १,२०,०४,०००/-

एकूण

- रु. २२,५८,३२,९२०/-
(अक्षरी रू. एकवीस कोटी अठ्डावन्न लक्ष एकतीस हजार नऊशे वीस मात्र)
याबाबत आपले काही म्हणणे असल्यास ते पूराव्यानिशी (जसे गौण खनिज परवाना, निर्गत पासेस, गौण उत्पादन व निर्गत प्राधिकृत नोंदवही संबंधित विभागाचे अेम.बी. अभिलेख इत्यादी सह) आपण स्वतः किं वा आपल्या प्राधिकृत व्यक्ती / प्रतिनिधी मार्फत दहा दिवसात मला सादर करावेत आंणि आपणांस देण्यात आलेल्या संधिचा फायदा घ्यावा. अन्यथा याबाबत आपले काही म्हणणे नाही असे गृहीत धरून आपणां विरूध्द उपरोक्त कायद्या प्रमाणे दंडनिय कारवाई करणेत येईल आणि सदरची रक्कम खाणी व खानिजे (नियमन व विकास) अधिनियम १९५७ चे उपबंध २५ (१) (२) अन्वंये जमीन महसूलाची थकबाकीची रक्कम म्हणून सक्तीच्या उपाय योजने प्रमाणे वसुल करणेत येईल यानी कृपया नोंद घ्यावी.


तहसिलदाऱ बोरीवली

मा. तहसिलदार बोरीवली
मुंबई
विषय : गौण खनिज : मुंबई उपनगर जिल्हा
मौजे- एकसर, ता. बोरीवली येथील स.नं. २०४/५, २०५/१/१, २०५/३/१, २०५/द, न.भू.क्र. १४४८/टाअ, १४४ट/C/ड मधून अनधिकृतं उत्खननाबाबत.

संदर्भ : तह/ बोरी/गौ.ख./टे-३/ कावी--৭०३७/ १३, दि. १४/१०/२०१३

महोदय,
आपली नोटीस दिनांक १४/१०/२०१३ च्या अनुषंगाने नोटीसमध्ये उल्लेख केल्याप्रमाणे मंडळ अधिकारी बोरीवली यांच्या चौकशीवरुन मौंजे- मागाठाणे, ता. बोरीवली, सर्वे नं. २०४/द, $२ ० ૬ / १ / १, २ ० \varsigma / ३ / १, २ ० \varsigma / G$, न.भू.क्र. १४४८/C/अ, १४४८/C/ड या मिळकतीमध्ये गौण खनिजाचे $९ 0000$ ब्रास एवढे खोदकाम केल्याचे नमूद केले आहे. सदर उत्खनन क्षेत्राचे मोजमाप करताना पक्षकार या नात्याने आम्हास कळविणे गरजेचे होते. तसे न क्रता केवळ तक्रारदाराने तक्रांरीत उल्लेख केलेप्रमाणे $९ 0000$ ब्रास परिमाणाबाबत कोणतीही मोजमापे न घेता परस्पर दंडनिय कार्यवाहीची नोटीस दिली आहे, तिला माझ़ी हरकत आहे,

तथापि, याबाबत त्रयस्त मोजणीकीरिता तारीख दयावी व त्यामध्ये आलिरिक्तित परिमाण आढळून आल्यास त्याबाबत असणारे स्वामित्वधन मी भरण्यास तयार आहे.

तसेच सदरचे काम हे रितसऱ परवानगी घेऊनच होत आहे. आमच्या माहितीप्रमाणे सध्या म.ज.म.अ. १९६६ चे कलम ४८ (७) (८) अन्वये दंडनिय कारवाईस मा. हायकोर्ट कडून स्थगिती असलेने आपण अशा प्रकारची कार्यवाही करु शकत नाही.

# विषय : रिट पिदिशन क्र. ६७०२/२०१? 

 महाराष्ट्र चेंबर्स ऑफ हाऊसिग विमहाराष्ट्र शासन व इतर

मुंबई उपनगर जिल्धातील इमारतीच्या बांधकामासाठी भुखंझाचा विकास करताना खोदकामासाठी वापरण्यात येणान्या गौण खनिजापोटीच्या प्रकरणात जिल्दाधिकारीं, मुंबई उपनगए जिल्हा यांच्याकड्रन महाराष्ट्र चेंबर्स ऑफ हाअसिंग इडस्ट्री (MCHI) च्या सदरयांना महाराष्ट जामोन। महसूल अधिनियम, $\gamma<$ ( $७$ ) नुसार नोटीसा बजावप्यात आल्या आहेत लाविएँच्ध महाराष्ट चैलसी ऑफ हाऊसंग इडस्ट्री ( MCHI ) चा सदस्यांनी मा. उच्च न्यायालयात याचिका क्र.६७०२/२०२३ दाखल केली आहे, या याचिकेत दि.द. $5.2 ० 9 ?$ रोजी सुनावणी होऊन न्यायालयाने अंतरीम स्थागेती दिली असल्याने न्यायालयाचे आदेश विचारात घेता अशा प्रकारची, स्वामित्यधन वसुली बाकाती प्रस्तावीत कार्यंवाही बाबत मा. उच्च न्यायालयाच्या आदेशानुसार कार्थवाहीं करप्यात यावी, ही किएंती,

सोबत : न्यायनिर्णयाच्री प्रत
(x. थ. नलावर्ड)
उप संचिय
महसूल व बन बिभाग

MANAGING COMMITTEE 2011-2012

PRESIDENT
Paras Gundacha
IMMEDIATE PAST PRESIDENT Sunil Mantif
PRESIDENTELECT Vimal Shah VICE PRESIDENTS

Chamoch Jain Mayur Shah Nayan Shah Deepak Goredia HON. SECRETARY Beman hare - President (MCHI Mira Viray City Unil)
HON JOINT SECRETARIES
Rasest Kanakia Harish Patel
Nainesh Shah-President (MCHI Thane Unit) TREASURER Ashok Mohamani J. TREASURERS

Mukesh Patol, L: R. Bhagtani CO-ORDINATORS
Suatrai Nahat, Puji Aggarwal Sandoep Rumval
COMMITTEE MEMBERS Sandeep Rabeia
Bandish Ajmera - President (MCHI Kalyan-Dombivali Unit) Sljel Starall, Parag Munot Rajan Bandelkar, Vikas Watawalkay Jayesh Shath, Nayan Bheda Sanjäy Chabria Rajendra Chaturvedi INVITEE MEMBERS
Mukesh Mehta, Rakesh Sanghw Jaghishiathua
Aiay Ashar - Secretany (MCHI Thane Unit) Shrikant Shitole - Secretary (MCHI Kalyan-Dambivali Unie) Shalesh Sangliv - Secretary (MCHI Mira Virar City Unit)
Arajesh Prajapati - President (MCHI Raigad Unit)
Suresh Haware - President (MCHI Navi Mumbal Unit) PAST PRESIDENTS
Pravin Doshi, Mohan Ceshmukh Molatraj Mandt Niranjan Miranancani Fajni S. Aimera, Q L. Raheia (Late) Lalit Gandhi (Late) Babubhai Mojethia

WGHII-CREDヘ介
Ref No.: MCHI/SEC/11-12/206

March 19, 2012

To,

- Managing Committee Members
- Patron Members
- Life Members
- Corporate Members
- MCHI Units All Members

Sub :- WP No. 6702 of 2011 (Reg. Royalty for Excavation) Maharashtra Chamber of Housing Industry V/S<br>State of Maharashtra \& Others.<br>\section*{Ref the letter no. MCHI/SEC/11-12/094 of dated 7 th September 2011 from MCHI}

MCHI and all the MCHI Units have filed a WP challenging the Notices issued by the Government $\mathrm{u} / \mathrm{s} 48(7)$ of the Maharashtra Land Revenue Code of 1966 (MLRC), whereby the petitioners \& their members were called upon to show cause, why the amount mentioned in the respective notices for payment of Royalty and or Penalty under the provisions of MLRC, on account of carrying out excavation for the purpose of laying foundation of building \& or for the purpose of land filing on site or another plot etc.

The above petition came for hearing before Hon'ble D.D. Sinha \& R. Y. Ganoo, J.J. on 5-09-2011.

It was contended by the Counsel, appearing for the petitioners, that similar/identical challenge was raised by the petitioners in petition no. 7390 of 2010 \& other connected petitions. The Hon'ble Court by Order dt. $13^{\text {th }}$ April 2011 admitted the petitions and granted ad interim Order in the said petition by giving reasons.

Maharashtra Chamber of Housing Industry (ISO 9001:2008)
Maker Bhavan Il, 4th Floor, 18, V. Thackersey Marg. New Marine Lines, Murnbai - 400020.
Tel: 42121421. Fax : 4002 0361/62. Emall: secretariat@mchinet Website : wow.mchinet

## तहसिलदार बोरीवली यांचे कार्यालय

नाटकवाला लेन, डॉ. न. रा. करोडे मार्ग, एस. व्ही. रोड, बोरीवली (प.) मुंबई- ४०००९२, दू. क्र. २८०७५०३४

## नोटीस

प्रति,
2) श्री. विजय व्ही. वाधवा वाधवा कन्स्ट्रक्शन प्रा. लि.
३ रा मजला, प्लॅटीना प्लॉट नं.सी-५९, जी ब्लॉक, बी.के.सी. बांद्रे (पू) मुबई-૪०००५१
२) श्री. रविंद्र चिपळूणकर

रा.१४०, सी-२, तिरंगा को.ऑप. हौ.सो.
म्हाडा, मालवणी, मालाड (प)
मुंबई-૪०००९५

क्रमांक :-तह/बोरी/गौ.ख./टे-३/कावि-१०३७/१३
दिनांक :- 92/२२/२०१३

आपण उपरोक्त परिमाणासाठीचे अनधिकृतरित्या उ़त्खनन केलेले आहे आणि यासाठी मुंबई गौण खनिज उत्खनन नियम १९५५ चे उपनियम २९ आणि शासनाच्या महसूल व वनविभागाच्या निर्णय क्र.गौण खनि/२०/०२०६/प्र.क्र.५७/ख दि.३५/२२/२००६ अन्वये ६००२० ब्रासच्या उत्खननाची कोणत्याही सक्षम अधिका-याची परवानगी घेतलेली नाही. ज्या अर्थी आपण उपरोक्त जमीनीवर गौण खनिजाचे अनधिकृत उत्खनन केल्याचे प्रत्यक्ष दर्शनी दिसून आलेनुसार महाराष्ट्र जमीन महसुल अधिनियम १९६६ चे कलम ४८ (७) (८) अन्वये दंडनिय कारवाईस पात्र ठरत आहात.

प्रस्तुत प्रकरणी प्रत्यक्ष जागेवर बांधकामाची साठी केलेल्या उत्खननाबाबतची स्थिती जाणून घेण्यासाठी दि. १८/२२/२०१३ रोजी दुपारी ४-०० वाजता स्थळपाहणी निश्चित करण्यात आली आहे. तरी या कामी आपलेकडील तज्ञ व्यक्तींना आवश्यक ते नकाशे परवानग्या व मोजमापाच्या साहित्यासह उपस्थित राहण्याच्या सूचना देण्यात याव्यातः प्रकरणी स्थळपाहणीच्या वेळी आपलेकडील कोणतीही व्यक्ती वरील दिवशी व वेळी उपस्थित राहीले नाही. तरी त्यांच्या अनुपस्थितीत स्थळपाहंणी व मोजमाप घेण्यात येईल व त्यानंतर आपले कोणतेही म्हणणे ग्राह्य धरले जाणार नाही याची नोंद घ्यावी.


तहसिलदार बोरीवली

## VINITA ESTATES PRIVATE LIMITED

3rd Floor, Platina, Plot C-59, G-Block, BKC, Bandra (East), Mumbai - 400 051. (INDIA) Tel.: 67308400• Fax: 67308401
E-mail: info@wadhwadevelopers.com•Website: www.wadhwadevelopers.com
$28^{\text {th }}$ February, 2014

## To,

The Ex. Engineer, Bldg. Proposal Dept. (WS-2)
Municipal Corporation of Greater Mumbai, Sanskruti Complex, 90' Road, Thakur Complex, Kandivali (East), Mumbai

> Sub. :- Complaints against M/s. Vinita Associates (Wadhwa) for illegal work of closing the pond and implementation of penalty

Ref. :- 1. Complaint letter received from Mr. Ravindra Chiplunkar dated 16.12.2013
2. $\mathrm{CHE} / \mathrm{A}-4541 / \mathrm{BP}(\mathrm{WS}) / \mathrm{AR}$
3. Your letter It. 06.01.2014

Sir,
In this case, the plot under reference was reserved for Private Recreation Ground in SRDP of 'R' Ward and was low lying. Subsequently, the said land was allowed to be developed as Club House, Gymkhana with Swimming Pool as per the provision of D.C. Regs. and policies in force.

I Subsequently, by Government Notification vide No. TPB-4303 / 1203 / CR 224 / 03 / UD-11 dated 30-10-2004, reservation of said land was deleted and land was placed in Residential Zone. Accordingly we have submitted plans and the same are approved.

- We have obtained all the permissions from State Govt in UD, Revenue authorities \& M.C.G.M. and as such the question of illegal work of closing of the pond does not arise. Further, the low lying area is converted into basement, as such the question of huge amount of digging does not arise at all.

Please find enclosed herewith details of excavation and receipt of payment made to the Collector.

In view of above submission, we hope that the above explanation is sufficient. Thanking You,

$\therefore \quad \sim$
Club Aquaria Grande Royality Permission Details

| Sr. no. | Date | Qty . Brass | Area | Height | Cum | Qty. Brass |  |
| :---: | :---: | :---: | :---: | :---: | :---: | :---: | :---: |
| 1 | 17/11/08 to 16/03/09 | 6000.00 | 1596.00 | 9.4 | 15002.40 | 5292.85 |  |
| 2 | 18/04/09 to 17/07/09 | 5000.00 | 1431.00 | 9 | 12879.00 | 4543.71 |  |
| 3 | 16/10/10 to 15/01/11 | 5000.00 | 1518.00 | 8.4 | 12751.20 | 4498.62 |  |
| 4 | 04/01/11 to 03/04/11 | 5000.00 | 1386.00 | 9 | 12474.00 | 4400.83 |  |
| 5 | 13/09/11 to $12 / 12 / 11$ | 5000.00 | 1454.10 | 9 | 13086.90 | 2612.55 |  |
| 6 | 17/11/11 to 16/02/12 | 3000.00 | 822.80 | 9 | 7405.20 | 979.02 |  |
| 7 | 11/01/2013 | 980.00 | 925.00 | 3 | 2700.00 | 246.96 |  |
| 8 | 20/04/2013 | 250.00 | 350.00 | 2 |  | 27191.60 | A |
|  |  | 30230,00 |  |  |  |  |  |
|  | Less Oty. |  |  |  |  | 158.76 |  |
| 9 | Old swimming pool |  | 150.00 | 3 | 450.00 | $\underline{264.6}$ |  |
| 10 | Lazy Pool | ; | 375.00 | 2 | 750.00 | 264.6 |  |
| 11 | Od Basement Appr. <br> Plan BMC 1996 |  | 730.10 | 3 | 2190.30 | 772.74 |  |
|  |  |  |  |  |  | 1196.10 | B |
|  |  | 30230.00 |  |  |  | 25995.50 | $A-B=C$ |



# IN THE HIGH COURT OF JUDICATURE AT BOMBAY 

## CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7390 OF 2010
P.S.C. PACIFIC
.... Petitioner
vs
The State of Maharashtra \& ors.
.... Respondents

## ALONG WITH WRIT PETITION NO. 8019 OF 2010

| Flagship Infrastructure Pvt.Ltd. <br> vs. | .... | Petitioner |
| :--- | :--- | :--- | :--- |
| The State of Maharashtra \& ors. | ... | Respondents |

WITH
WRIT PETITION NO.8020 OF 2010

| Matrix Developers Pvt. Ltd. <br> vs. | .... | Petitioner |
| :--- | :--- | :--- |
| The State of Maharashtra \& ors. | $\ldots$ | Respondents |

AND ALONG WITH WRIT PETITION NO. 8023 OF 2010

| Eiffel Developers and Realtors Ltd. <br> vs. | .... | Petitioner |
| :--- | :--- | :--- | :--- |
| The State of Maharashtra \& orr. | ... | Respondents |

Mr. G.S. Godbole with Mr. D.S. Patil for the petitioners.
Mr. S.N. Patil, AGP for respondent in Writ Petition No.7390/2010.
Mr. S.R. Nargolkar, Addl. G.P. For respondents in Writ Petition No. 8019/2010, 8020/2010 and 8023/2010.

## CORAM: D. K. DESHMUKH \& <br> ANOOP V. MOHTA, JJ.

DATE : April 13, 2011

## P.C.:

In all these Petitions, notices were issued under Section 48(7) of the Maharashtra Land Revenue Code, 1966 have been challenged. Those notices have been issued and proceedings have been taken up by the Authorities of the State Government against the Petitioner, because the Petitioners are digging the land which is granted to the Petitioner for construction of building for the purposes of laying foundation and for levelling the land.

2 The learned counsel appearing for the Respondent pointed out to us that in Writ Petition No.785/2008 - Promoters and Builders Association vs. State of Maharashtra and other connected Writ Petitions, the notices issued under Section 48(7) of the Maharashtra Land Revenue Code were challenged and a Division Bench of this

Court by its judgment dated 8 October 2010 has held that all those notices were valid. The learned counsel for the Petitioner states that that judgment has been challenged before the Supreme Court in Petition for Special Leave (Civil) No.33002/2011 and in that Petition on 24 October 2011 the Supreme Court has issued a notice and has granted "interim stay of the operation of the impugned judgment of the High Court".

3 We have also been pointed out that the Division Bench while deciding those Writ Petitions has not considered the provisions of Section 43 of the Maharashtra Land Revenue Code as also the provisions of the Rules framed under that provision. It was submitted that when land is granted for a particular purpose, then the grantee has implied authority to do everything on the land which is necessary for using the land for the purpose for which it has been granted. It is submitted that the land which is granted for the purposes of building site, can be excavated for erection of a building as also for digging of a well. We were taken through the provisions of the Maharashtra Land Revenue (Restrictions on use of Land) Rules, 1968, particularly, Rule 6 of those Rules, which lays down "no un-alienated land within the site of any village, town or city shall be excavated without the previous
written permission of the Collector for any purpose except for laying of foundation for buildings, the sinking of well and making of grainpits. If excavation is to be done for any purposes other than laying foundation for building sinking of well, or making of grain-pits, then an application is to be made to the Collector for permission and under sub-rule (2) of Rule 6 of the said Rules of 1968. That application is to be considered by the Collector keeping in view the provisions of the Mines and Minerals (Regulations and Development) Act, 1957. It was submitted that these provisions clearly bring out that when land is granted for erection of building then statutory permission to dig the land for the purposes of laying of foundation for building, the sinking of well and making of grain-pits is granted. If the land is to be excavated for any other purpose then permission of Collector is necessary and then in granting that permission, the Collector has to have regard to the provisions of the Mines and Minerals Rules. It was submitted that under Section 48 (7), penalty can be levied by the Collector when any minor mineral is extracted from the land without lawful authority. It was submitted that when the land granted for building site is excavated for laying foundation, then that activity is with lawful authority and, therefore, there is no question of levying of any penalty for carrying out that activity. It was also submitted
before us that this aspect of the matter was pointed out to the Division Bench and that written submissions were also filed. However, the judgment of the Division Bench shows that these aspects have not been considered. In this situation, in our opinion, it will be appropriate to admit these Petitions for final hearing.

4 Hence, Rule.
5 Ad-interim order in terms of prayer (e).
(ANOOP V. MOHTA, J.)
(D. K. DESHMUKH, J. )

