

Salgaonkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6332 OF 2025

Lalani Constructions Pvt. Ltd. .. Petitioner

Versus

State of Maharashtra through .. Respondents
Secretary & Ors.

...

Ms.Sultana V. Sonawane with Sangharshika P. Sonawane for
the Petitioner.

Mr.N.C.Walimbe, Addl.G.P. with Mr.M.M.Pable, A.G.P. for the
State/Respondent.

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.

RESERVED ON : 09th APRIL, 2026
PRONOUNCED ON : 05th MAY, 2026

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JUDGMENT (PER BHARATI DANGRE, J.)

1. Rule. Rule made returnable forthwith, by consent of parties.

2. The Petitioner-Lalani Constructions Pvt. Ltd., claims to be the owner of certain lands from Survey Nos.233/1 (old survey No.71/1), 233/3 (old survey No.71/3), 233/4 (old survey No.71/4) and 233/6 (old survey No.71/6) at Village Damat, Taluka Karjat, District Raigad. It is the case of the Petitioner, a company represented through its Director, that the said land was purchased by it from Alwadi Service Co-Operative Society Ltd. vide a registered Sale Deed dated

29/12/2009. The Petitioner purchased the said land, described as 'agricultural land', for the purpose of carrying out non-agricultural activities, after securing necessary permissions from the District Collector/Authority with the payment of required charges.

3. Upon paying lawful consideration to its vendor, the Petitioner obtained 7/12 extract from the land record office at Damat and was surprised to note that in the other rights column, there existed a remark, "Pending enquiry subject to the provisions of the Maharashtra Private Forest Act".

The Petitioner was of the view that there was no forest surrounding the lands, which it had purchased and its vendor Alwadi Service Co-Operative Horticulture Society had purchased the land from its erstwhile owners for cultivation purpose by registered Sale Deeds, and there is no reason why such entry was recorded.

4. The Petitioner waited for some period of time and was expecting some enquiry to be conducted as regards the said land, resulting into deletion of the entry in the other rights column, but when no steps were taken, it preferred representation to the Range Forest Officer, Raigad requesting for deletion of Mutation Entry No.1919 recorded on 12/03/2001, as the entry was taken pending some enquiry and claiming that it had purchased the land and, therefore, it is entitled to get its name mutated, as the Sale Deed was registered.

5. An acquaintance of the Petitioner preferred an application under the Right to Information Act, 2005 (for short, “RTI Act”) and the Regional Forest Officer, Matheran furnished information to Shri Suraj Vijay Hindurao providing information, that the land standing in the name of M/s Lalani Constructions, with its description with reference to the old survey number and new survey number in village Damat with the area, which was purchased by a registered Sale Deed, an entry was taken through Mutation Entries recorded on 16/03/1961 and 19/03/1961, recording as below :

अ.क्र.	गाव	सर्व्हे क्र.	खातेदाराचे नाव	क्षेत्र (हे.)	नो.क्र.	शेरा
1	दामत	जुना 71/1 नविन 233/1	मे. ललानी कन्स्ट्रक्शन प्रा. लि. तर्फे हुसेन शौकत ललानी	2.26.62	4240 16.3.61	महाराष्ट्र खाजगी वने अधिनियमातील तरतुदीस अधिन
2	दामत	जुना 71/3 नविन 233/3	मे. ललानी कन्स्ट्रक्शन प्रा. लि. तर्फे हुसेन शौकत ललानी	3.24.00	4306 16.3.61	महाराष्ट्र खाजगी वने अधिनियमातील तरतुदीस अधिन
3	दामत	जुना 71/4 नविन 233/4	मे. ललानी कन्स्ट्रक्शन प्रा. लि. तर्फे हुसेन शौकत ललानी	1.67.00	4250 19.3.61	महाराष्ट्र खाजगी वने अधिनियमातील तरतुदीस अधिन
4	दामत	जुना 71/6 नविन 233/6	मे. ललानी कन्स्ट्रक्शन प्रा. लि. तर्फे हुसेन शौकत ललानी	2.63.00	4250 19.3.61	महाराष्ट्र खाजगी वने अधिनियमातील तरतुदीस अधिन

“subject to the provisions of Maharashtra Private Forest Act”.

6. The Petitioner also sought information by preferring an application under the RTI Act and requested for copies of the notices issued to the land owners of the parcel of land and it received several copies of notices issued under sub-section (3) of Section 35 of the Indian Forest Act, 1927, but it is the case of the Petitioner that it was not furnished with any acknowledgment of the said notices, which would be a proof of service of notice on the land owners or its acceptance.

It is also the case of the Petitioner that there was no Notification issued under Section 34-A of the Indian Forest Act to declare the agricultural land as forest.

The primary objection of the Petitioner is, the persons to whom the notice under sub-section (3) of Section 35 was issued, there is no endorsement that it was received or that the notice is served upon the owner of the land and that there was no enquiry of any sort conducted to declare the agricultural land as 'Private Forest'.

7. The learned counsel for the Petitioner has vehemently urged before us that before the land is declared as private forest under the Maharashtra Private Forest (Acquisition) Act, 1975, which came into effect from 30/08/1975, where a specific procedure is contemplated. According to her, the Act has identified several lands to be "private forest" and it would include (i) the land declared before the appointed date to be 'forest' under Section 34 A of the Forest Act or (ii) any forest in respect of which a Notification is issued under sub-section(1) of Section 35 and which is in force immediately before the appointed date or (iii) any land in respect of which notice has been issued under Section 35(3) of the Indian Forest Act, but excluded two Hectore to the extent as the Collector may specify in this behalf.

It is the contention of Ms.Sonawane that in respect of the land in which the Petitioner is interested, no Notification under Section 35(1) was issued and the land was privately owned and never declared as 'forest' and, therefore, the entry in the other rights column as 'Maharashtra Private Forest, subject to the Regulations/Act', cannot be sustained.

8. The learned counsel would place heavy reliance upon the authoritative pronouncement of the Apex Court in the case of

*Godrej And Boyce Manufacturing Company Limited & Anr. Vs. State of Maharashtra & Ors.*¹, where it is held that for the purpose of a declaration under Section 35(1) of a particular land to have been vested in the State Government as Private Forest, it must be preceded by issuance of notice under subsection (3) of Section 35 and in absence of any proof of receipt of notice, it cannot be said that the notice has been duly received by the owner. Apart from this, it is the contention of the Petitioner that the land continued to remain in possession of the private owners and subsequently transferred to the Petitioner, when it purchased the same from the erstwhile vendors and, since, the Forest Department never took possession of the said land, the entry in the other rights column in respect of the said land deserve to be deleted.

9. On hearing the learned counsel for the Petitioner and on perusal of the documents placed on record, including the registered Sale Deeds in respect of the subject land, it is seen that, the vendor of the Petitioner-M/s Awadi Sheti Vikas Society had purchased the land from one Mehmudmiya Miya Khot, Shankar Laxman Maskar and Balkrishna Shankar Maskar. The Sale Deeds placed on record in favour of the society reflect the dates as 20/03/1980 and 13/05/1980. According to the Petitioner, it was only through Entry No.1919 of the Tahasildar, the entry as regards the private forest is recorded, but it is the contention of the Petitioner that no notice was issued to the owners at the relevant time and this Mutation Entry is recorded on 21/07/2001, without following the procedure prescribed under the Indian Forest Act. It is

1 (2014) 3 SCC 430

also noticed that merely because some enquiry is pending, the enjoyment of the said property by its owner cannot be restricted as that offends the right of a party to enjoy the property, which is purchased by him for due consideration.

10. We have considered the contentions advanced. At present, in the absence of a reply affidavit filed, we only have the material which is secured by the Petitioner under the RTI Act and the notices which are received by the Petitioner and annexed at Exhibit C (colly).

We have noted that there is a reference to the notice under Section 35(3) of the Indian Forest Act, being addressed to one Laxman Dhavu Maskar and in another notice, the name does not appear with clarity, but one of the notice makes mention of Mehmudmiya Dadamiya Khot. However, in absence of any proof of the service of notice to the owner of the parcels of land against which the entry of private forest is recorded, merely on the ground of some enquiry being on-going, we do not find that there is any justification in recording such entry, and unless and until it is established that the notice was received by the owner, inviting objections as to why restrictions under the Indian Forest Act cannot be imposed against the said land and not only this, the notices have culminated into a Notification issued under sub-section(1) of Section 35 of the Act.

11. Since the Petition lacks all the necessary particulars, as the Petitioner was only furnished some scanty information under the RTI Act, we deem it appropriate to relegate the Petitioner to Respondent No.3-the Deputy Conservator of Forest, who can ascertain whether the notices issued in respect

of the lands as set out in paragraph 1 of the Plaint, which the Petitioner has purchased, were served upon the predecessors of the Petitioner, who at the relevant time were the owners of the said land and if there is a proof of such service being effected upon the owners, and whether there exists a Notification issued under sub-section(1) of Section 35 of the Indian Forest Act. It is only upon ascertainment of these aspects in the light of the decision in the case of *Godrej And Boyce* (supra) and *Rohan Vijay Nahar & Ors. Vs. State of Maharashtra & Ors.*², the request of the Petitioner to delete the entry in the other rights column in 7/12 extract, in respect of Survey Nos. 233/1 (old survey No.71/1), 233/3 (old survey No.71/3), 233/4 (old survey No.71/4) and 233/6 (old survey No.71/6) from Village Damat, Taluka Karjat, District Raigad can either be confirmed or rejected.

12. We direct the Forest Department to issue notice to the Petitioner for hearing and upon an appearance being marked, the Forest Department shall ascertain the record pertaining to the lands, which are the subject matter of the Petition and ascertain whether the notices under sub-section (3) of Section 35 have been served upon the owners and whether there exists a Notification under sub-section (1) of Section 35 of the Indian Forest Act.

13. Upon being satisfied with the aforesaid, we expect the Deputy Conservator of Forest to pass a speaking order and if at all it is found from perusal of the record that the procedure under the Indian Forest Act has been followed, the entry in the

² 2025 SCC OnLine SC 2366

other rights column shall be confirmed or else the same shall be deleted.

14. Needless to state that the Petitioner is entitled to approach the Court, if its grievance is not redressed.

15. We direct the Respondent No.3-Deputy Conservator of Forest, Karjat, Dist.Raigad to adjudicate the grievance of the Petitioner within a period of four months from the receipt of this order.

The learned A.G.P. to communicate this order to the Respondents.

Rule is made absolute in above terms.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)