

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2191 OF 2015**

Uday Atmaram Shirsekar & Ors.	...Petitioners
Versus	
State of Maharashtra & Ors.	...Respondents

Mr. A. S. Khandeparkar I/b Mr. Amogh K. Karandikar for the Petitioners

Mr. G. W. Mattos, A.G.P for the Respondent-State

**CORAM : DR. MANJULA CHELLUR, C.J. &
M. S. SONAK, J.
WEDNESDAY, 1st NOVEMBER, 2017**

P.C. :

1. The petitioners are before this Court, seeking following reliefs :

“(a) this Hon'ble Court be pleased to issue a writ of mandamus or a writ, direction or order in the nature of mandamus or any other writ, direction or order under Article 226 of the Constitution of India directing the Respondents, their servants, agents, officers, employees, representatives or any other person or persons to demarcate the portion of forest land and deforest land being the land admeasuring 7 Acres and 3 Acres 13 Ares land declared as deforested in the year 1940 and in the year 1958 respectively and the remaining portion of 7 Acres land as a forest land, if any, on Survey No. 377, C.T.S. No. 1A and 1B situated at Mauje Mulund, Mumbai 400082;

(b) *this Hon'ble Court be pleased to issue a writ of mandamus or a writ, direction or order in the nature of mandamus or any other writ, direction or order under Article 226 of the Constitution of India directing the Respondents, their servants, agents, officers, employees, representatives or any other person or persons to prepare a map of Survey No. 377 describing the location of the Petitioners and other eligible hutments on the land admeasuring 7 Acres and 3 Acres 13 Ares land declared as deforested in the year 1940 and in the year 1958 respectively and the remaining portion of 7 Acres land as a forest land, if any, on Survey No. 377, C.T.S. No. 1A and 1B situated at Mauje Mulund, Mumbai 400082;*

(c) *in the alternative to the Prayer Clause (a) and (b) this Hon'ble Court be please issue Writ of Mandamus or any other appropriate writ or order or direction in the nature of mandamus directing the Respondents to rehabilitate 600 occupants including Petitioners on the portion of survey No. 377, situated at Hanuman Pada, Mauje Mulund, District Mumbai, which is already declared and notified as deforest land or on any other the land in Mauje Mulund District Mumbai belonged to Respondent No. 1 or 2;*

(d) *In the alternative tot eh above (a) and (b), this Hon'ble Court be pleased to direct the Respondent No. 3 to take action in pursuance of the Petitioners' representation dated 17th November 2014 (Exhibit "Y" hereto);*

(e) *for costs of the Petition be provided;*

(f) *for such further and other reliefs as the nature and circumstances of the case may require."*

2. The main contention of the petitioners is that they are given photo-passes on the ground that they are occupying as slum dwellers, certain land belonging to the Revenue Department.

3. Grievance of the petitioners is pertaining to the very same area where they are residing, whereas, Department is making a claim that the property falls within the Forest area. Apparently, there is not even a single piece of paper, where Forest Department is putting forth such claim. Even otherwise, the dispute would be between the Revenue Authorities and the Forest Department. If the property in question belongs to Revenue Department and if the claim of the petitioners is with regard to the property pertaining to the Revenue Department, the petitioners not being owners of the property, cannot seek declaration of property in question as a non-forest property with effect from 1940, since owner of the property is Revenue Department. Apparently, there seems to be various land adjoining the area where photo-passes are already issued.

4. In the light of such factual situation, we decline to intervene in the matter, since the dispute could be a boundary dispute and the claim

could be in respect of forest land which is not part of the photo-pass area. According to us, unless the Forest Department initiates any action, no cause of action of any nature would arise to approach the Court.

5. With these observations, the petition is disposed of.

M. S. SONAK, J.

CHIEF JUSTICE