

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (STAMP) NO.26132 OF 2017

Ashford Developers Pvt. Ltd.	... Petitioner
Vs.	
Union of India & Ors.	... Respondents

Mr.Kamlesh Ghumre alongwith Mr.Aditya Parulekar with Ms.Sonali Sabale for the Petitioner.
Mr.Parag Vyas alongwith Mr.D.P.singh for Respondent No.1.
Mr.P.G. Sawant, AGP for Respondent Nos.2 to No.6.

CORAM : A.S. OKA &
M.S.SONAK, JJ.

DATE : 5th SEPTEMBER, 2018

P.C.

1 Heard learned counsel for the Petitioner. Prayers (a) to (c) of this Petition read thus.

a. that this Hon'ble Court to issue a writ order or direction in the nature of certiorari or any other appropriate writ order or direction calling for the record of entries made in the Revenue Record and the remark 'Prior permission of the Central Government' and after examining the legality and validity thereof be pleased to quash and set aside the same.

b. that this Hon'ble Court to issue a writ of certiorari or writ in the nature of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the action taken by entering the names of Forest in the Revenue Records and after examining the legality and validity thereof be pleased to quash and set aside the same;

c. that this Hon'ble Court be pleased to issue a writ of prohibition or any other appropriate writ order or direction in the nature of prohibition prohibiting the Respondents from applying or taking any action or proceeding with any proceedings under the said Maharashtra Act or the Indian Forest Act, 1927 against the disputed land.

2 Prayer (a) is a challenge to a mutation entry made under the provision of the Maharashtra Land Revenue Code, 1966 and the Rules framed thereunder. The contention of the Petitioner is that the issue regarding applicability of the Maharashtra Private Forest (Acquisition) Act 1975 has been decided in favour of the Petitioner by the order dated 27th June 2014 passed by the Maharashtra Revenue Tribunal. The submission is that as far as the entry of forest in accordance with the Indian Forest Act, 1927 is concerned, Forest is a Central subject and not the State subject.

3 Prayer (b) proceeds on the footing that the name of the forest is entered in the Revenue record . We have perused the 7/12 extract which is annexed at Exhibit A. The name of forest is not entered in the 7/12 extract. Only on the basis of Mutation entry No.407, a remark has been entered in the "other rights column" that the land cannot be used without prior permission of the Central Government for non forest use. Further, according to the case of the Petitioner, the said entry is wrongly made though the land is not a forest land. The said issue can

be agitated in Appeal which may be preferred against the impugned mutation entry.

4 As far as prayer (c) is concerned, a blanket order prohibiting the Respondent from taking recourse to the provisions of law cannot be granted. If a recourse is taken to the provisions of law, the Petitioner can always challenge the same.

5 Therefore, by keeping open the remedy of the Petitioner of challenging the legality or validity of the mutation entry No.407 by adopting appropriate proceeding under the Maharashtra Land Revenue Code 1966, Writ Petition is disposed of. All contentions and merts are kept open.

(M.S.SONAK, J)

(A.S. OKA, J)