

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.3783 OF 2015**

Mahatma Public Magaswargiya Sahakari  
Gruhaanirman Sanstha and Anr.

...Petitioners

vs.

The State of Maharashtra and Ors.

...Respondents

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Mr. Anil D'souza a/w Mr. Abhijeet Shinde for the Petitioners.

Mr. Y. S. Khochare, AGP for the Respondent Nos.1 to 3/State.

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**CORAM : B. P. DHARMADHIKARI &  
MRS. SWAPNA S. JOSHI, JJ.**

**DATE : 14/08/2019.**

**P.C.:**

. Heard learned counsel for the petitioners and learned AGP for Respondent Nos.1 to 3, 5 and 6.

2. Though planning authority/Respondent No.5 has filed reply there is no appearance for it.

3. After hearing respective counsel we find that in PIL 39/2003, the present petitioner was not party and as such directions therein, considering his specific grievance in relation to identifying area privately purchased by it in 1987 as "forest alike area", cannot fastened upon it. Submission is if any such identification is to be made binding, the present petitioner should have been made party in that PIL and by giving opportunity of hearing the issue could have been decided. To substantiate the submission it is pointed out that the Revenue Authority has after due permission submitted necessary proposal to the State Government and

thereafter exercise of powers under section 37 of Maharashtra Regional and Town Planning Act leaving 2.85 hectores of land, rest of the land has been permitted to be used for residential purposes. Learned counsel submits that this quasi legislative exercise has attained finality.

4. The State Government and its other departments do not dispute the facts leading to issuance of modification under section 37 of MRTP Act. However, our attention is invited to the proceeding which are pending before the National Green Tribunal in this respect. It is submitted that National Green Tribunal has directed to identify the area i.e. Forest Areas and forest alike areas and for that purpose has constituted a joint committee of representatives of Chief Conservator of Forest, Satara and Divisional Commissioner, Pune. The committee is expected to look into such individual cases, compile data and then submit it to National Green Tribunal.

5. Learned counsel on behalf of State Government states that National Green Tribunal is trying to protect and conserve the forest areas. Our attention is invited to the judgment of Hon'ble Apex Court in the case of *T.N. Godavarman Thirumulpad vs Union Of India & Ors., (1997) 2 SCC 267*. Our attention is also drawn to the affidavit in reply filed on behalf of Respondent No.6 for this purpose.

6. We do not find it necessary to consider any disputed issue at this stage. In PIL it cannot be said that any dispute in relation to title of the petitioner or any of its contentions has been decided. The petitioners were not parties to that PIL and therefore did not get any opportunity to raise any such contentions. The directions issued by this Court are general in nature and only for the purpose of mapping existing land user so that forest can be protected and conserved.

7. That PIL has been disposed of. However, same exercise appears to be going on before National Green Tribunal in Original Application No.108/2018. Order dated 13/3/2019 passed therein forms part of the reply affidavit tendered before this Court by respondent No.6.

8. We therefore find that the petitioner can raise all necessary factual and legal contentions before the Committee and the Committee while preparing report can examine the same. We are informed that the matter is now scheduled to come on 1/10/2019 in National Green Tribunal.

9. We therefore permit the petitioner to submit suitable representation along with necessary documents within a period of three weeks from today to the said Committee along with a copy of this order .

10. After receipt of such representation, the Committee shall extend an opportunity of hearing on representation to the petitioner as also to the respondent/State and then submit a suitable report to National Green Tribunal.

11. With these directions and keeping all contentions of the petitioner open, we dispose of the petition. No costs.

**(MRS. SWAPNA S. JOSHI, J.)**

**(B. P. DHARMADHIKARI, J.)**