

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 12477 OF 2017**

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| Shoeb G. Khan<br>V/s.<br>The District Collector,<br>Palghar and ors. | ... Petitioner<br><br>... Respondents |
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Mr. Atul Damle, Sr. Counsel a/w. Mr. Kunal Damle for the Petitioner.  
Mr. P.P. Kakade, GP with Mr. A.P. Vanarse, AGP and Mr. B.V. Samant, AGP for Respondent Nos.1 to 5.  
Mr. P.S. Gujar a/w. Mr. R.V. Govilkar for Respondent No.6.

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| <b>CORAM</b> | <b>:</b> | <b>AKIL KURESHI &amp;<br/>S.J.KATHAWALLA, JJ.</b> |
| <b>DATE</b>  | <b>:</b> | <b>OCTOBER 18, 2019.</b>                          |

**P.C.**

1] Heard learned counsel for the parties for final disposal of the petition.

2] A short prayer made in this petition is for directing the respondents to delete and cancel the entry made in 7/12 records for land ad-measuring 3 Hectares and 20 RA out of Survey No.241 situated at Village Poman, Taluka Vasai, District Thane. The petitioner's prayer arising in the following background.

3] The petitioner is the owner of the land in question. The disputed entries in 7/12 records pertaining to the said land specifies the land to be forest land and shows the name of the State of Maharashtra. The petitioner had approached the Sub-Divisional Officer (SDO for short), Bhiwandi, Forest Department, State of Maharashtra, who had passed an order dated 6.1.2011 holding that on the appointed date under the Maharashtra Private Forests (Acquisition) Act, 1975 (the Act for short), the land was not a forest land and therefore, the land is not a forest land.

4] The State Government challenged the order dated 6.1.2011 passed by the SDO before the Maharashtra Revenue Tribunal, Mumbai along with an application for condonation of delay. On such application for condonation of delay, the Tribunal passed an order dated 8.6.2012 refusing to condone the delay. So far the State Government has not carried this matter any further. Under such circumstances, the petitioner's grievances that despite such orders, the relevant entries in the revenue records have not been deleted. Hence, this petition.

5] Learned Government Pleader appearing for the respondents - State, under instructions, stated that the Government has taken a decision to challenge the said order of the Tribunal dated 8.6.2012. He submitted that the issues involved in the present petition are squarely covered by the judgment of the Division Bench of this Court dated 27.9.2018 passed in Writ Petition No. 4814 of 2016 in case of ***Devkumar G. Aggarwal and ors. Vs. State of Maharashtra and ors.***

6] On the other hand, Counsel for the petitioner submitted that any such petition would be grossly belated, the petitioner would also have other legal contentions, even if such petition were to be filed.

7] When the State contends that the issues relating to the status of the land in question have already been dealt with by this Court in case of *Devkumar Aggarwal (supra)*, we would not be in a hurry to grant the prayers of the petitioner. However, the State also cannot avoid implementation of the orders passed by the *quasi judicial* authorities and the

Tribunal for an indefinite period of time without taking legal recourse against such orders.

8] Under the circumstances, the petition is disposed of with following directions:

(a) We leave it open for the State Government to challenge the order of the Tribunal dated 8.6.2012 in the manner it may be advised. However, if within a period of three months from today, no proceedings are instituted and even if instituted, no interim protection is granted to the respondents, the order passed by the SDO shall be implemented. It is clarified that all contentions of the petitioners in response to any such proceedings that the Government may initiate are kept open;

(b) We have not expressed any opinion with respect to the merits and de-merits of the rival contentions.

9] The petition is disposed of accordingly.

**(S. J. KATHAWALLA, J.)**

**(AKIL KURESHI, J.)**