

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11459 OF 2023

- 1 Harishchandra Dadu Patil
Age–Adult, Occupation : Farmer
- 2 Smt.Vithabai Shankar Patil,
Age–Adult, Occupation : Farmer
- 3 Smt.Shakuntala balkrishna Thombare
Age–Adult, Occupation : Farmer
- 4 Smt.Yamuna Sitaram Joshi
Age–Adult, Occupation : Farmer ... Petitioners
- 5 Smt.Chanda Anant Patil,
Age–Adult, Occupation : Farmer
Through their POA holder
Mr.Rajan Narayan Bandelkar
Unnathi Garden, Pokharan Road
No.2, Majiwade,
Thane (W) – 400 0610.

Versus

- 1 The State of Maharashtra
Through its Secretary (Forests)
Revenue & Forest Dept., Mantralaya,
Mumbai–32.
- 2 The Ld.District Collector, Thane,
Collector office, First Floor,
Court Naka, Thane (West)
- 3 The Ld. Sub Division Officer,
Thane Collector Office, Second Floor,
Court Naka, Thane (West)
- 4 The Ld.Tahasildar, Thane,
Tahasildar Office, Thane.
- 5 Taluka Inspector of Land Records,
Thane, T.I.L.R. Office, First Floor,
Collector Office Compound, Court
Naka, Thane (West).

- 6 The Chief Conservator of Forests,
Revenue and Forest Department,
Mantralaya, Mumbai – 400 032.
 - 7 The Principal Chief Conservator of
Forest, III Floor, Van Bhavan, Ramgiri
Road, Civil Lines, Nagpur 440 001.
 - 8 The Assistant Conservator of Forests,
Thane, Forest office, Teen Hath Naka,
Thane.
 - 9 The Municipal Commissioner,
The Municipal Corporation of the City
of Thane, Office at Mahanagarpalika
Bahavan, Dr.Almeda Road,
Chandanwadi, Panchpakhadi, thane
(West) – 400 602.
- ... Respondents.

ALONGWITH
WRIT PETITION NO.11488 OF 2023

- 1 Smt.Dharmobai Jagannath Patil,
Age – Adult, Occupation : Farmer
- 2 Rohidas Jagannath Patil,
Age – Adult, Occupation : Farmer
- 3 Bhagirathi Jagannath Patil,
Age – Adult, Occupation : Farmer
- 4 Prabhakar Jagannath Patil,
Age – Adult, Occupation : Farmer
- 5 Datta Jagannath Patil,
Age – Adult, Occupation : Farmer
- 6 Smt.Kunda Suresh Pachkude,
Age – Adult, Occupation : Farmer
- 7 Smt.Chandra Gurunath Mhatre,
Age – Adult, Occupation : Farmer
- 8 Smt.Laxmi Ratilal Mukadam,
Age – Adult, Occupation : Farmer
- 9 Smt.Jyotsna Sunil Patil,
Age – Adult, Occupation : Farmer

- 10 Sandip Yashwant Patil,
Age – Adult, Occupation : Farmer
- 11 Mahendra Yashwant Patil,
Age – Adult, Occupation : Farmer
- 12 Smt.Sunanda Anant Mhanere
Age – Adult, Occupation : Farmer
- 13 Smt.Kashibai Nathuram Mukadam,
Age – Adult, Occupation : Farmer.
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- 8 The Assistant Conservator of Forests,
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- 9 The Municipal Commissioner, ... Respondents.
The Municipal Corporation of the City
of Thane, Office at Mahanagarpalika
Bahavan, Dr.Almeda Road,
Chandanwadi, Panchpakhadi, thane
(West) – 400 602.
- 10 Union of India,
Through the Secretary,
Ministry of Environment, Forest and
Climate Change, Indira Paryavaran
Bhavan, Aliganj,
New Delhi–110 003.

ALONGWITH
WRIT PETITION NO.11483 OF 2023

- 1 Joma Padmakar Shinge
Age – Adult, Occupation : Farmer
- 2 Kaluram Padmakar Shinge,
Age – Adult, Occupation : Farmer
- 3 Smt.Champubai Eknath Mhatre,
Age – Adult, Occupation : Farmer
- 4 Smt.Gaurubai Dwarkanath Shinge,
Age – Adult, Occupation : Farmer
- 5 Smt.Motibai Padmakar Shinge,
Age – Adult, Occupation : Farmer
- 6 Smt.Changubai Padmakar Shinge,
Age – Adult, Occupation : Farmer
- 7 Smt.Gujibai Padmakar Shinge,
Age – Adult, Occupation : Farmer
- 8 Smt.Laxmibai Pandurang Shinge,
Age – Adult, Occupation : Farmer
- 9 Kamalakar Pandurang Gshinge,
Age – Adult, Occupation : Farmer

- 10 Smt.Kalpana Pandurang Shinge,
Age – Adult, Occupation : Farmer
 - 11 Satyawar Pandurang Shinge,
Age – Adult, Occupation : Farmer
 - 12 Shaina Pandurang Shinge,
Age – Adult, Occupation : Farmer
 - 13 Ananta Pandurang Shinge,
Age – Adult, Occupation : Farmer
 - 14 Smt.Sheela Pandurang Shinge,
Age – Adult, Occupation : Farmer
 - 15 Smt.Hema Pandurang Shinge,
Age – Adult, Occupation : Farmer
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7 The Principal Chief Conservator of Forest, III Floor, Van Bhavan, Ramgiri Road, Civil Lines, Nagpur 440 001.

8 The Assistant Conservator of Forests, Thane, Forest office, Teen Hath Naka, Thane.

9 The Municipal Commissioner,
The Municipal Corporation of the City of Thane, Office at Mahanagarpalika Bahavan, Dr.Almeda Road, Chandanwadi, Panchpakhadi, thane (West) – 400 602.

... Respondents.

10 Union of India,
Through the Secretary,
Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhavan, Aliganj,
New Delhi–110 003.

ALONGWITH WRIT PETITION NO.11472 OF 2023

1 Smt.Dharmobai Jagannath Patil,
Age – Adult, Occupation : Farmer

2 Rohidas Jagannath Patil,
Age – Adult, Occupation : Farmer

3 Bhagirathi Jagannath Patil,
Age – Adult, Occupation : Farmer

4 Prabhakar Jagannath Patil,
Age – Adult, Occupation : Farmer

5 Datta Jagannath Patil,
Age – Adult, Occupation : Farmer

6 Smt.Kunda Suresh Pachkude,
Age – Adult, Occupation : Farmer

7 Smt.Chandra Gurunath Mhatre,
Age – Adult, Occupation : Farmer

- 8 Smt.Laxmi Ratilal Mukadam,
Age – Adult, Occupation : Farmer
 - 9 Smt.Jyotsna Sunil Patil,
Age – Adult, Occupation : Farmer
 - 10 Sandip Yashwant Patil,
Age – Adult, Occupation : Farmer
 - 11 Mahendra Yashwant Patil,
Age – Adult, Occupation : Farmer
 - 12 Smt.Sunanda Anant Mhanere
Age – Adult, Occupation : Farmer
 - 13 Smt.Kashibai Nathuram Mukadam,
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Through the Secretary,
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New Delhi–110 003.

... Respondents.

ALONGWITH WRIT PETITION NO.11479 OF 2023

- 1 Smt.Devkubai Bhaskar Patil,
Age – Adult, Occupation : Farmer
- 2 Harischandra Bhaskar Patil,
Age – Adult, Occupation : Farmer
- 3 Narayan Bhaskar Patil,
Age – Adult, Occupation : Farmer
- 4 Smt.Laxmibai Sitaram Patil,
Age – Adult, Occupation : Farmer
- 5 Smt.Dharmi Dama Mukadam,
Age – Adult, Occupation : Farmer
- 6 Smt.Chandrabhaga Namdev Patil,
Age – Adult, Occupation : Farmer
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- 9 The Municipal Commissioner,
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- 10 Union of India,
Through the Secretary,
Ministry of Environment, Forest and

... Respondents.

Climate Change, Indira Paryavaran
Bhavan, Aliganj,
New Delhi-110 003.

ALONGWITH
WRIT PETITION NO.11476 OF 2023

- 1 Kaliram Manik Daki,
Age – Adult, Occupation : Farmer
 - 2 Gangaram Manik Daki,
Age – Adult, Occupation : Farmer
 - 3 Narayan Manik Daki,
Age – Adult, Occupation : Farmer
 - 4 Raghunath Manik Daki,
Age – Adult, Occupation : Farmer
 - 5 Ganesh Manik Daki,
Age – Adult, Occupation : Farmer
 - 6 Purushottam Manik Daki,
Age – Adult, Occupation : Farmer
 - 7 Smt.Minakshi Krushna Bhoir,
Age – Adult, Occupation : Farmer.
- Through their POA holder
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Through the Secretary,
Ministry of Environment, Forest and
Climate Change, Indira Paryavaran
Bhavan, Aliganj,
New Delhi-110 003.

ALONGWITH
WRIT PETITION NO.7739 OF 2018

- 1 Smt.Ramubai Rajaram Patil,
Age – Adult, Occupation : Farmer
- 2 Smt.Kundabai Nakul Shinge,
Age – Adult, Occupation : Farmer
- 3 Sandeep Nakul Shinge,
Age – Adult, Occupation : Farmer
- 4 Smt.Kesara Sudam Jadhav,

Age – Adult, Occupation : Farmer

- 5 Smt.Reena Vijay Kakukar,
Age – Adult, Occupation : Farmer.

Through their POA holder

.... Petitioners

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Through the Secretary,
Ministry of Environment, Forest and
Climate Change, Indira Paryavaran
Bhavan, Aliganj,
New Delhi-110 003.

ALONGWITH
WRIT PETITION NO.8397 OF 2018

- 1 Kishor Ramchandra Patil,
Age – Adult, Occupation : Farmer
 - 2 Ganpat Ramchandra Patil,
Age – Adult, Occupation : Farmer
 - 3 Smt. Sandhya Kedarnath Katekar,
Age – Adult, Occupation : Farmer.
 - 4 Smt.Ahilya Chatrapati Mhatre,
Age – Adult, Occupation : Farmer.
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Through the Secretary,
Ministry of Environment, Forest and
Climate Change, Indira Paryavaran
Bhavan, Aliganj,
New Delhi–110 003.

ALONGWITH
WRIT PETITION NO.11484 OF 2023

- 1 Smt.Hashibai Shantaram Shinge,
Age – Adult, Occupation : Farmer
- 2 Smt.Draupadi Satyawar Wadekar,
Age – Adult, Occupation : Farmer
- 3 Rajesh Shantaram Shinge,
Age – Adult, Occupation : Farmer.

Through their POA holder
Mr.Rajan Narayan Bandelkar
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- 10 Union of India,
Through the Secretary,
Ministry of Environment, Forest and
Climate Change, Indira Paryavaran
Bhavan, Aliganj,
New Delhi-110 003.

ALONGWITH
WRIT PETITION NO.12847 OF 2017

- 1 Shri.Mangal Shivram Daki,
Age – Adult, Occupation : Farmer
 - 2 Parag Shivram Daki,
Age – Adult, Occupation : Farmer
 - 3 Smt. Krushnibai Harischandra Patil,
Age – Adult, Occupation : Farmer.
 - 4 SmtMalibai Harischandra Bhoir,
Age – Adult, Occupation : Farmer.
- Through their POA holder
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... Respondents.

.....

Mr.Milind Sathe, Senior Advocate a/w Mr.Saurabh Butala and
Mr.Aditya Base i/b. Mr.Harshad Bhadbhade, Advocate for the
Petitioners.

Mr. B. V. Samant, AGP a/w. Mr.M.M. Pabale, AGP for Respondent–
State.

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**CORAM : NITIN JAMDAR AND
MANJUSHA DESHPANDE, JJ.**

DATE : 6 DECEMBER 2023.

ORAL JUDGMENT : (Per : NITIN JAMDAR, J.)

Rule. Rule returnable forthwith. Respondents waive service.

2 These Writ Petitions pertain to various parts of Land Survey No.245 situated at village Kavesar, Taluka and District–Thane. The Petitioners are aggrieved by the order passed by the Collector Thane staying the order of the Sub–Divisional Officer which had directed that the Mutation Entry in respect of the Petitioners’ land declaring these land as “Forest” be deleted.

3 The details of the Petitioners’ lands are as follows: In Writ Petition No.11459 of 2023, filed by Harischandra Dadu Patil and Ors., the Land Survey No.245/2 and it admeasures 2600 square meters, in Writ Petition No.11488 of 2023 filed by Dharmobai Jagannath Patil and Ors., the land Survey No.245/10 it admeasures 450 sq. mtrs., in Writ Petition No.11483 of 2023 filed by Joma Padmakar Shinge and Ors., the Land Survey No.245/6, it admeasures 2150 sq. mtrs., in Writ Petition No.11472 of 2023 filed by Darmobai Jagannath Patil and Ors., the Land Survey No.245/4e, it ademasures 2020 sq. meters, in Writ Petition No.11479 of 2023 filed by Devkubai Bhaskar Patil and Ors., the Land Survey No.245/c, it admeasures 810 square meters, in Writ Petition No.11476 of 2023 filed by Kaliram Manik Daki and Ors., Land Survey No.245/4d, it admeasures 860 square meters, in Writ

Petition No.7739 of 2018 filed by Ramubai Rajaram Patil and Ors., the Land Survey No.245/8, it admeasures 1980 square meters, in Writ Petition No.8397 of 2018 filed by Kishor Ramchandra Patil and Ors., the Land Survey No.245/3, it admeasures 4740 square meters, in Writ Petition No.11484 of 2023 filed by Hashibai Shantaram Shinge and Ors., the Land Survey No.245/9, it admeasures 2710 square meters and in Writ Petition No.12847 of 2017 filed by Mangal Shivram Daki and Ors., the Land Survey No.245/1, it admeasures 2760 square meters.

4 The Assistant Conservator of Forest on 24 January 2006 informed Tahasildar Thane to make necessary changes in the revenue records in respect of the above lands of the Petitioners making an entry as “Forest” and to submit a report. By these mutation entries, the name of the Forest Department came to be recorded in Other Rights Column.

5 The Petitioners applied to the Sub-Divisional Officer and sought a village map from Taluka Inspector of Land Records (TILR) in respect of these entries. This map was placed before the Sub-Divisional Officer. The Sub-Divisional Officer after receiving the map and examining the boundaries and upon application of the Petitioners passed an order on 16 March 2015, cancelling the mutation entries.

6 The Respondents Collector exercising the powers of Suo

Moto Revision under the Maharashtra Land Revenue Code 1966 by order dated 27 March 2015, stayed the order passed by the Sub-Divisional Officer dated 16 March 2015. The order passed by the Sub-Divisional Officer was stayed by the Collector on two grounds. First, that the Sub-Divisional Officer had no power to give such declaration that the land is not a forest land and delete the entry. Second, the Sub-Divisional Officer failed to consider the decision of the Hon'ble Supreme Court in the case of *Godrej Boyce Mfg. Co. Ltd. and Anr. Vs. The State of Maharashtra and Ors.* alongwith connected Appeals arising out of SLP(C) No.10677 of 2008, in proper prospective and the said decision was distinguishable in law and on facts.

7 The Collector considered 18 orders passed by the Sub-Divisional Officer in the Suo Moto Revision. In this group were the orders passed in respect of the Petitioners as well. The other orders passed by the Sub-Divisional Officer arose from the same land survey number and, as pointed out by the Petitioners, belongs to the family members of the Petitioners. All these orders passed by the Sub-Divisional Officer were collectively considered by the Collector on the common reasoning as above. The Collector, by a common order had stayed the orders passed by the Sub-Divisional Officer.

8 One such order passed by the Sub-Divisional Officer which was considered by the Collector on common reasoning was subject matter of a Writ petition No.7924 of 2019 (Ananta Waman

Tanki Vs. The State Of Maharashtra And Ors. dated 26 July 2023). This Petition was came up for consideration before the Division Bench (Coram : Dhiraj Singh Thakur and Sandeep V. Marne, JJ.). The Division Bench referred to the controversy in short and after recording the factual background and the contentions of the parties allowed the Writ Petition by following reasoning:

20 In the present case the notice that was issued under Section 35(3) of the Act of 1927 is dated 5th November, 1960 which was thus issued at a point of time which is considerably long before the promulgation of the Private Forest Act, 1975 could not have been acted upon. Such a view was expressed in the case of Godrej & Boyce in the light of the show cause notice that had been issued to Godrej in 1957 on which no decision had been taken based thereupon till 1975, for a period of 18 years, which was held to be an unusually long period of time for enabling the State to take a decision on the show cause notice. It was held that failure on the part of the State to take any decision on the show cause notice for decades was indicative of its desire not to act on it and accordingly held that the notice could be acted upon only if it was in close proximity to the coming into force of the Private Forest Act, 1975. The ratio of the Judgment in the case of Godrej & Boyce (supra) applies squarely in the present case as well, inasmuch as no decision appears to have been taken by the Government pursuant to the issuance of notice dated 05th November, 1960 and the mutation came to be effected pursuant to a circular issued by the Government and the directions which had its genesis in the directions issued in PIL No.17 of 2002. Needless to say that even the mutation bearing No.2181 has since been set aside by the Sub- divisional Officer.

21 Similar issues based upon similar facts have already

been dealt with by this Court in a number of cases wherein the principles of law as stated by the Apex Court have been reiterated. Reference in this regard can be made to Sinhagad Technical Education Society V s. Dy. Conservator of Forest & Ors. {Writ Petition No. 7235 of 2013 decided on 3rd February, 2015} and Reveal Aluminum Pvt. Ltd. & Anr. V/s. Union of India & Ors. {Writ Petition No. 319 of 2019, decided on 27th July, 2022}

22 As far as the issue regarding erroneous boundaries of land in the notice is concerned, since we have arrived at a conclusion that land of the Petitioners is not a private forest within the meaning of Section 2(f (iii) of the Private Forest Act, 1975, it is not necessary to go into any factual dispute about error in mentioning boundaries of the land in question.”

The Petitioners have relied upon the order passed in the case of *Ananta Waman Tanki (Supra)* as above.

9 The learned Senior Advocate for the Petitioners submits that since these Petitions arise from the same order passed by the Collector in same facts and circumstances, this Bench should follow the decision in the case of *Anant Waman Tanki (Supra)*. He submitted that the order passed in the case of *Anant Waman Tanki (Supra)* is not set aside, modified or varied. Learned AGP sought to contend that the order passed in *Anant Waman Tanki (Supra)* has not considered various legal aspects and he sought to demonstrate the same by reply filed and states that this Court should take a different view.

10 It is not the case of the State that the decision in the case of *Anant Waman Tanki (Supra)* was ex-parte rendered against the State. This Petition was fully contested with learned Advocate General representing the State. We are not informed that this decision has been challenged, set aside or varied and, thus, it holds the field. The Petitioners have not cited this decision only as a precedent for establishing a legal proposition, but as an order in companion proceedings. There is no dispute before us that the Judgment and order passed in *Anant Waman Tanki (Supra)* arose from the very same common order passed by the Collector, which is impugned before us. No distinguishing features on facts are pointed out. Therefore, we will follow the order passed in *Anant Waman Tanki (Supra)* as a matter of judicial consistency once in a group of proceedings this Court has taken up particular view of the matter. Furthermore, the Division Bench in *Anant Waman Tanki (Supra)* has given a limited declaration.

11 Having found no difference from the facts and circumstances in the case of *Anant Waman Tanki (Supra)* and the present case, to maintain consistency amongst similarly situated litigants whose cases are dealt with in common by the Collector, we proceed to pass the same order as in the case of *Anant Waman Tanki (Supra)*.

12 The Writ Petitions are allowed. The Notices dated

5 November 1960 and the order dated 27 March 2015 passed by the District Collector in respect of the subject lands falling in each of this Petitions are set aside. We make it clear that as is done in the order of *Ananta Waman Tanki (Supra)* that the observations made in this order to the extent that land of the Petitioner is not a private forest within the meaning of Section 2(f)(iii) of Maharashtra Private Forest (Acquisition), Act 1975 and did not vest in the State Government under Section 3 of the said Act.

13 Rule in all the Petitions is made absolute in the above terms.

14 Writ Petitions are accordingly disposed of in above terms.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)