

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1881 OF 2024

Russell Francis Demello & Anr. ...Petitioners
Versus
The State of Maharashtra Thr. Its Secretary,
Forest Department & Ors. ...Respondents
Mr. Suyash Sale i/b Drupad Patil for Petitioner.
Ms. S. S. Bhende, AGP for State.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE: 13 JANUARY 2025

P.C.

1. We have heard learned counsel for the petitioner. The substantive prayers
as made in the petition read thus:

"i. This Hon'ble Court be pleased to issue a Writ of Certiorari or any other Writ in the nature of Certiorari and be placed to quash and set aside the Mutation Entry No.139 in respect of lands bearing Gat No.38 of Village Pangloli, Taluka Maval, District Pune dated 30.09.2008 being **Exhibit "J"** to this Petition.

ii. This Hon'ble Court be pleased to declare that the lands bearing Gat No.38, of Village Pangloli, Taluka Maval, District Pune, are not forest lands and not bound by the provisions of Maharashtra Private Forest (Acquisition) Act, 1975."

2. At the outset, Ms. Bhende, learned AGP has objected to the maintainability of this petition on the ground that Section 6 of the Maharashtra Private Forest (Acquisition) Act, 1975 (for short “1975 Act”) provides for an alternate remedy for settlement of disputes in cases where the question inter alia whether any land is a private forest. Section 6 reads thus:

"Section 6 in The Maharashtra Private Forests (Acquisition) Act, 1975

6. Settlement of disputes.

- Where any question arises as to whether or not any forest is a private forest, or whether or not any private forest or portion thereof has vested in the State Government or whether or not any dwelling house constructed in a forest stands acquired under this Act, the Collector shall decide the question, and the decision of the Collector shall, subject to the decision of the Tribunal in appeal which may be preferred to the Tribunal within sixty days from the date of the decision of the Collector, or the order of the State Government under section 18, be final."

3. We have perused the averments as made in the petition. The case of the petitioner is clearly that the land of the petitioner was never acquired by private forest. If that be so, whether the dispute is within the meaning of Section 6 of the 1975 Act.

4. Accordingly, we permit the petitioner to approach the said authority invoking provisions of Section 6 within two weeks from today. If such an application is filed, let the same be decided as expeditiously as possible and in any event, within a period of eight weeks from the date of filing.

5. All contentions of the parties are expressly kept open.
6. Petition stands disposed of in the aforesaid terms. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)