IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.88 OF 2024

Vanabai Ram @ Ramchandra Patil
Age: 70 years, Occ.: Agriculture,
having address at Nadhal Village,
Taluka: Khalapur, Dist. Alibag. …Petitioner

Versus

1. State of Maharashtra through
Government Pleader, Civil Appellate Side
High Court, Mumbai.

2. The District Collector, Raigad,
Dist. Raigad.

3. The Tahsildar, Khalapur,
Taluka: Raigad, Dist. Raigad.

4. The Deputy Forest Officer,
Alibag, Forest Department,
At Alibag, Dist. Raigad.

5. The Sub-Divisional Officer/
Sub-Divisional Magistrate,
Karjat, Sub-Division Karjat,
Department of Revenue and Forest,
Having address at Hidro Colony,
Dahivali, Taluka: Karjat, Dist. Raigad.

6. The Chief Forest Officer,
Thane, having address at
Microwave Tower,
12 Bungalow Area, Kopari,
Thane (E), Thane – 400 603.

7. Nathuram Kamlu Bhovar
Age: 69 years, Occ.: Agriculture,
having address at Nadhal Village,
Taluka: Khalapur, Dist. Alibag.

8. Sushama Briz Bakshi
Age: 65 years, Occ.: Housewife

9. Briz Ramprakash Bakshi
Age: 68 years, Occ.: Business,
both are having their address
1 & 2 Union Park, Chembur,
Mumbai – 071.

10. Sunil Shankarlal Lohiya
Age: 58 years, Occ.: Business,
having address at Nilkanth Darshan,
Opposite to Panvel Bus Stand,
Taluka: Panvel, Dist. Raigad.

11. Manishkumar
Age: 53 years, Occ.: Service
having address at Alibag Forest Division,
Alibag, Dist. Raigad.

12. Virendra Tiwari
Age: 54 years, Occ.: Service.

13. Sunil Pandhare
Age: 55 years, Occ.: Service,
both are having their address at
Revenue and Forest Department,
Madam Kama Marg, Hutatma Rajguru Chauk,
Mantralaya, Mumbai – 400 032.

14. Kalyani Kadam
Age: 53 years, Occ.: Service.

15. Iresh Chappalwar
Age: 55 years, Occ.: Service.

16. Aayub Tamboli
Age: 53 years, Occ.: Service,
Sr. No. 14 to 16 are having their address at
Tahshil Office, Khalapur,
Taluka: Khalapur, Dist. Raigad. …Respondents

None for the Petitioner.

Ms. Shruti D. Vyas, Addl.G.P. with Mr. Karan S. Thorat, 'B' Panel Counsel for the Respondent Nos.1 to 6- State.

Mr. Dharmesh Joshi with Mr. Ritesh Yadav with Mr. Zaid J. Sultan for the Respondent No.10.

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.

DATE : 11th MARCH 2026

JUDGMENT (Per Manjusha Deshpande, J.) :

1. None appears on behalf of the petitioner.

2. The petitioner challenges the legality and validity of a corrigendum to the notification dated 5th November 2019, issued by the Revenue and Forest Department of State of Maharashtra under the provisions of the Indian Forest Act, 1927. By issuing the corrigendum the State Government has corrected the survey number mentioned in the earlier government notification dated 14th August 1963, from Survey No.52/2 to Survey No.55/2. The petitioner who happens to be the owner of the Survey No.55/2/B at Nadhal Village, Taluka Khalapur, District Alibag, being aggrieved by the said change effected by the notification has approached this Court challenging the same. According to the petitioner as a result of this correction her private agricultural land in Survey No.55/2 is being treated as forest land.

This change has been effected after more than 50 years, that has caused great prejudice to her rights. According to the petitioner, this land has always been recorded as a private agricultural land in the revenue record, reliance is placed on the 7/12 extract of the land which indicates petitioner's name as the occupant of the land with no entry showing it as forest land.

3. The brief history of the agricultural land owned by the petitioner is that the land originally formed part of Survey No.55/2, the original landlord was one late Mr. Purushottam Dhondu Vaidya, who expired on 21st August 1995, pursuant to which Mutation Entry No.1419 came to be recorded. Prior to that, one Mr. Trambak Purushottam Palnithkar expired on 27th July 1981, pursuant to his death the names of his legal heirs including one Mr. Vishwnath Trambak Palnithkar were entered into revenue records vide Mutation Entry No.1418. Partition of the land was effected between Mr. Vishwnath Trambak Palnithkar and one Mr. Rajaram Purushottam Vaidya before the Tahsildar, Khalapur in respect of Survey No.55/2.

By subdivision, it was converted into Survey No.55/2A and Survey No.55/2B. The subdivision 55/2A came to be the share of Vishwnath Trambak Palnithkar admeasuring 1-60-0 and plot of land bearing Survey No.55/2B came to be the share of Rajaram Purushottam Vaidya. It is further stated that on 10th December 2011, Rajaram Purushottam Vaidya sold his land to Dipak Amarnath Thakur and Narayan Mahadev Kaprekar by executing a Sale Deed No.4952 of 2011. There was no dispute regarding the revenue entries of the said plot of land. After obtaining the necessary permission, a Mutation Entry was made in the Revenue Record, being ME No.2106. The purchasers Dipak Thakur and Naryan Kaprekar have sold the plot of the land Survey No.55/2B to the petitioner on 9th January 2012 by executing Sale Deed No.524 of 2012 and accordingly Mutation Entry No.2118 came to be recorded. There was no objection by any person or authority while executing the Sale Deed or even while taking the Mutation Entry No.2118.

4. The State of Maharashtra had a plot of land in Survey No. 52/2 bearing an entry as Protected Forests Land, in the Revenue Record. As a result of the impugned corrigendum dated 5th November 2019, the land of the petitioner in Survey No.55/2 is shown to be a Forest land instead of land in Survey No.52/2. The State Government had issued a notification under Section 35(1) of the Indian Forest Act, 1927, on 14th August 1963, regulating certain acts in the Forests Land situated in Kolaba District. The Schedule of the said notification reflected the land belonging to Purushottam Dhondu Vaidya in Survey No.52/2. The said entry continued for years together i.e. more than 50 years and all of a sudden on an application filed by one Nathuram Kamlu Bhovar i.e. Respondent no. 7, seeking that an amendment be made and Survey No. 52/2 be corrected as 55/2, has been entertained and accordingly a corrigendum has been issued thereby effecting the change.

According to the petitioner the land in Survey No.55/2 is an agricultural land and the mutation entry as well as the 7/12 extract, stands in the name of the petitioner. There has never been an entry of forests land in the record, in spite of this, the corrigendum has been issued by the Revenue Authorities. The petitioner is a senior citizen who is made to suffer injustice at the instance of respondents causing wrongful loss to her. She is a Bonafide purchaser of the land for consideration. The entry has been taken on the basis of the application which is not supported by any other document.

5. It is the contention of the petitioner that the name of Respondent No.7 in the present petition, is recorded along with the State of Maharashtra as 'Reserved Forests' in the extract of village records maintained under Rule 7.

6. The application of respondent No.7 should not have been entertained after a gap of more than 50 years for issuance of corrigendum thereby imposing an embargo on the petitioner's use of the agricultural land by declaring it as forest land.

7. The learned Addl. G.P. has opposed the prayer of the petitioner contending that, the corrigendum dated 5th November

2019, correcting Survey No.55/2 in place of Survey No.52/2 was effected, since it transpired that while issuing the notification under Section 35(1) of the Indian Forest Act, 1927, inadvertently Survey No.52/2 has been mentioned instead of Survey No.55/2. It is submitted that Deputy Conservator of Forests, Alibag informed the respondent-revenue authorities to take entries in the record of rights of land as per the instructions given in the Government Circular dated 14th July 2005.

8. An application was moved by respondent No.7-Nathuram Bhovar seeking direction to amend Survey No.52/2 instead of Survey No.55/2 at Mouje Nadhal as per Notification under Section 35(1) of the Indian Forest Act. After conducting hearing of the parties and considering their written statements based on the record which discloses that name of Nathuram Bhovar has been included in 7/12 extract and Survey No.55/2 has been subdivided into Survey No.55/2/A/1 and 55/2/A/3 in the name of owner Sushma Bakshi. Similarly, Sunil Shankar Lohia was found to be owner of Survey

No.55/2/A/3 and Vanabai Ram Patil and Ram Vitthal Patil are the owners of Survey No.55/2/B. Hence, the Chief Conservator of Forests, Thane had sent proposal to the Secretary, Revenue and Forests Department, Mantralaya, for making correction by replacing Survey No.55/2 instead of Survey No.52/2 in the notification under Section 35(1) of the Indian Forest Act, 1927 by issuing a corrigendum in the gazette. In view of the notification so issued the Tahsildar, Khalapur, Alibag, has passed an order on 29th April 2022, by directing the concerned Talathi to carry out changes accordingly in records of rights. It is therefore submitted that the respondent-authorities have taken steps in consonance with the provisions of law and have acted upon it to effect necessary changes in the records of rights, therefore, no interference is warranted in the present writ petition.

9. It is also submitted on behalf of respondent Nos.1, 6, 12 and 13, the forests authorities that notices were issued under Section 35(3) of Indian Forest Act on 10th February 1956, to Purushottam Dhondu Vaidya and Trambak Purushottam Palnithkar, owners of land

bearing 55/2 situated at Nadhal, Taluka Khalapur to show cause why a notification under Section 35(1) of the Indian Forest Act should not be issued for regulating certain acts on the land in the forest. The Government of Maharashtra in exercise of their powers under Section 35(1) issued a notification on 14th August 1963, in respect of the lands in Kolaba District including land of Mr. Purushottam Dhondu Vaidya as appended in the Schedule to the notification dated 14th August 1963, issued by the Forests Department. While issuing the Government Gazette dated 10th August 1964, at serial No.18 in column No.5 an erroneous entry of land as Survey No.52/2 has been taken instead of Survey No.55/2. According to them, respondent No.7 has applied to Sub-divisional Officer, Panvel, for making enquiry under Section 22A of the Maharashtra Private Forests Acquisition Act, 1975, in respect of land Survey No.52/2 of Village Nadhal.

During the enquiry it was disclosed that the notice issued under Section 35(3) of the Indian Forest Act, dated 1st February 1959, is issued in respect of 52/2 admeasuring 0.54 hectares to the original landlord Trambak Purushottam Palnithkar, however, record of rights disclosed that Vinayak Sadashiv Potdar and Trambak Purushottam Palnithkar are the original owners of 55/2 of the Village Nadhal. When the SDO Panvel requested to verify the forests records in respect of both the land i.e. 52/2 and 55/2, it was revealed that notice under Section 35(3) of the Indian Forest Act, dated 10th February 1956 for land admeasuring 5 acres and 10 guntas has been issued in the name of Purushottam Dhondu Vaidya and Trambak Purushottam Palnithkar in respect of Survey No.55/2. The entries of notices have been taken in the concerned register. The boundaries mentioned in the notification published by government under Section 35(1) are the boundaries of 55/2 for which notice No.137 dated 10th February 1956, was issued. Therefore, an inadvertent mistake occurred while issuing notification published under Section 35(1) of the Indian Forest Act by mentioning Survey No.55/2 in column No.5 against the entry No.18. The boundaries of 52/2 did not match with the boundaries mentioned in the notice dated 35/3, and notification under Section 35(1) of the Indian Forest Act. Therefore, it was necessary to issue the corrigendum to the notification dated 14th August 1963.

Accordingly, the respondent No.3 has moved a proposal on 4th January 2019, and consequently, the impugned corrigendum has been issued.

It is further submitted that the revenue records of Survey No.55/2 disclose that land has been restored to the original owners i.e. Trambak Palnithkar and Purushottam Vaidya by an order passed under Section 22(A) of the Indian Forest Act, since the holding of the owners was less than 12 hectares.

In view of the issuance of corrigendum on 5th November 2019, the record of rights of the land in Survey No.55/2 has been corrected. It is submitted that Survey No.55/2 is not a private land but is a reserved forest and accordingly entries to that effect have been recorded in 7/12 extract of Survey No.55/2/A/1 and in the extract of Survey No.55/2/B and lastly it is stated that the corrigendum is issued to remove the injustice caused to the respondent No.7 which he was required to endure for years together. Therefore, when the typographical mistake was first noticed in the year 2013, it has been corrected and therefore, no prejudice is caused to the petitioner. Since the petitioner was aware about the status of Survey No.55/2 as Forest Land and no prejudice is caused to him as a result of corrigendum.

10. We have heard the respective parties and perused the records with the assistance of the parties. The grievance of the petitioner appears to be the corrigendum dated 5th November 2019, issued to the notification dated 10th February 1956 i.e. after more than 60 years, purportedly issued for correcting a typographical mistake. The petitioner is a Bonafide purchaser of the land for consideration, who has purchased it on 9th January 2012, from Dipak Amarnath Thakur and Narayan Mahadev Kaprekar, who in turn had purchased it from Rajaram Purushottam Vaidya on 10th December 2011. The predecessor in title of Rajaram Purushottam Vaidya was Vishwnath Trambak Palnithkar.

11. After taking possession of the land, Mutation Entry in the name of the petitioner is also recorded being Mutation Entry No.2118, while effecting the Mutation Entry No.2118 as well as

while executing the Sale Deed no objection has been taken by the authorities of the Revenue Department or the Forests Department. The 7/12 extract of Survey No.52/2 of village Nadhal, Taluka Khalapur, discloses name of State of Maharashtra ‘Reserved Forests’ with the name of ‘Nathuram Kamlu Bhovar’ as occupants of the land. It also discloses that Mutation Entry No.1783 has been taken on 16th March 2005, after giving notice to the interested person which was pending enquiry under Section 22A of the Maharashtra Private Forests Act, 1975. Thus, it is evident that the respondent No.7 was in possession of the Survey No.52/2 along with State of Maharashtra with an endorsement of ‘Private Forests’ and enquiry under Section 22A for return of excess land was pending before the Competent Authorities.

12. The question that arises before us is, whether after a period of 60 years of issuing notification under Section 35(1) of the Indian Forest Act, whether any corrigendum to the said notification can be issued, claiming to be correction of typographical error. Section 35(3)

of the Indian Forest Act, 1927 provides that no notification under Section 35(1) shall be issued unless a notice is issued to the owner of such forests or land calling upon to show cause within a reasonable period to be specified in such notice as to why such notification should not be made or work constructed as the case may be and until the objection has been heard by an officer appointed on that behalf and considered by the government. Only upon following the procedure under Section 35(3) of the Indian Forest Act, a notification under Section 35(1) can be issued regulating and prohibiting the use of forest or waste land. In the present case, the notice under Section 35(3) has been issued on 12th August 1955, in respect of Survey No.55/2 with approximate area of 5 acres and 10 guntas. The notification under Section 35(1) has been issued on 10th December 1964, which states that the notice have been issued under Section 35(3) of the Indian Forest Act, in response to which no objections have been taken by the land owners for issuance of the notification. By showing Gat No.52/2 to the extent of 5 acres and 10 guntas showing name of Purushottam Dhondu Vaidya to be the occupier of the land.

The notice under Section 35(3) is sent to the land owner of 55/2 for which there is no proof on record that the land owner was served with such notice. The notification issued under Section 35(1) discloses that no objections were taken by the owners, therefore, it is doubtful whether the owner has received the notice under Section 35(3). Section 35(3) is a self contained provision, which provides that unless such notice is issued and objection if any, is heard, and the evidence is produced in support of the same by the appointed officer the notification under Section 35(1) cannot be issued. None of the authorities have made a specific averment in their affidavit, that notice under Section 35(3) dated 10th February 1956 has been served on the owners of the land of Survey No.55/2. The only reason for carrying out the correction by issuing corrigendum, is that the respondent No.7 had filed an application to the SDO making enquiry under Section 22A under the Maharashtra Private Forests Act, 1975 in respect of his land and during such enquiry it transpired that there is a difference in the Survey Numbers mentioned in the notification issued under Section 35(1) and the notice issued under Section 35(3). Therefore, according to them to remove the injustice caused to the respondent No.7 as a result of wrong entry of Survey No.52/2 owned by the respondent No.7 in the notification issued under Section 35(1), the corrigendum dated 5th November 2019 has been issued. However, while doing so there is a huge delay of more than 60 years in issuance of such corrigendum. A corrigendum can certainly be issued if the authority on its own or after bringing it to its notice that, a typographical error has occurred in an order, to correct such mistakes, provided it is done within a reasonable period, after passing of the order. In the present case in the interregnum the land has changed hands from the original owner to Rajaram Purushottam Vaidya, thereafter to Dipak Amarnath Thakur and Narayan Mahadev Kaprekar, who in turn have sold to the present petitioner by executing Sale Deed in the year 2012. Hence, such rights created cannot be disturbed abruptly by issuing a corrigendum purportedly for making necessary corrections if such corrections are going to result into causing upheaval in respect of the rights of those persons who are purchasers for valuable consideration and are in settled possession of the lands for considerable period.

13. Incidentally, the Hon'ble Apex Court in the case of ***Godrej and Boyce Manufacturing Company Limited and Another v/s State of Maharashtra and Others***[1] while dealing with an issue about issuance of notice under Section 35(3) and resultant notification issued under Section 35(1) after a huge gap of 18 years, which was to some extent similar to the present case has held that when the show-cause-notice under Section 35(3) was issued to the appellant in the year 1957 was kept pending and no decision was taken thereon till 1975, the Hon'ble Apex Court while pronouncing upon such delay has made following observations:-

> *"67. According to the State, a show-cause notice was issued to Godrej in 1957 (and assuming it was served) but no decision was taken thereon till 1975, that is, for about 18 years. This is an unusually long period and undoubtedly much more than a reasonable time had elapsed for enabling the State to take a decision on the show-cause notice. Therefore, following the law laid down by this Court, the show-cause notice must, for all intents and purposes be treated as having become a dead letter and the seed planted by the State yielded nothing.*

1 (2014) 3 SCC 430

68. The entire problem may also be looked at from the perspective of the citizen rather than only from the perspective of the State. No citizen can reasonably be told after almost half a century that he/she was issued a show-cause notice (which was probably not served) and based on the show-cause notice his/her land was declared a private forest about three decades ago and that it vests in the State. Is it not the responsibility of the State to ensure that its laws are implemented with reasonable dispatch and is it not the duty of the State to appreciate that statute books are not meant to be thrown at a citizen whenever and wherever some official decides to do so? Basic principles of good governance must be followed by every member of the Executive branch of the State at all times keeping the interests of all citizens in mind as also the larger public interest.

69. In our opinion, the failure of the State to take any decision on the show-cause notice for several decades (assuming it was served on Godrej) is indicative of its desire to not act on it. This opinion is fortified by a series of events that have taken place between 1957 and 2006, beginning with the consent decree of 8th January 1962 in Suit No. 413 of 1953 whereby the disputed land was recognised as not being forest land; permission to construct a large number of buildings (both residential and otherwise) as per the Development Plans of 1967 and then of 1991; exemptions granted by the competent authority under the Urban Land (Ceiling and Regulation) Act, 1976 leading to Godrej making unhindered but permissible constructions; and finally, the absence of any attempt by the State to take possession of the "forest land" under Section 5 of the Private Forests Act for a couple of decades. The subsequent event of the State moving an application in Godavarman virtually denying the existence of a private forest on the disputed land also

> *indicates that the State had come to terms with reality and was grudgingly prepared to accept that, even if the law permitted, it was now too late to remedy the situation. This view was emphatically reiterated by the Central Empowered Committee in its report dated 13th July 2009."*

This view in ***Godrej and Boyce Manufacturing Company Limited*** *(Supra)* was further reiterated in the case of ***Rohan Vijay Nahar and Others v/s State of Maharashtra and Others*[2]*,*** where it has been held that the proof of service of notice under Section 3 is mandatory. It should not only be issued but also be served upon the land holder, which enables the land holder to raise his objection, if any. It is further observed that the fact that some appellants are subsequent purchasers do not diminish the requirement of service and a live statutory process. It once again reiterated the view taken in the case of ***Godrej and Boyce Manufacturing Company Limited (Supra)*** that the notices issued should be a live notice and should be acted upon in close proximity of period of time. In the present case virtually the notice under Section 35(3) issued on 10th February 1956 is sought

2 (2026) 2 SCC 182

to be acted upon by issuing a corrigendum dated 5th November 2019 to the notification dated 14th August 1963.

14. Though the facts of the present case may not be identical but the ratio which has been laid down in ***Godrej and Boyce Manufacturing Company Limited (Supra)*** and ***Rohan Vijay Nahar and Others (Supra)*** is squarely applicable in the present case. Assuming that there is a genuine mistake committed by the authorities while issuing notification under Section 35(1) and the notice was rightly issued to an appropriate person under Section 35(3), such notice cannot be acted upon under the guise of correcting the mistakes by issuing corrigendum after a period of 60 years. Therefore, in our opinion, the ratio in the case of ***Godrej and Boyce Manufacturing Company Limited (Supra)*** certainly applies to the present case and thus such corrigendum issued to carry out corrections which causes prejudice to the petitioner cannot be sustained. Consequently, the writ petition is allowed and the corrigendum notification issued under

Indian Forest Act, 1927 No. FLD13/2019/C.R370/F-3, issued by Revenue and Forests Department, State of Maharashtra dated 5th November 2019 stands quashed and set aside.

All concerned to act on the authenticated copy of this judgment.

MANJUSHA DESHPANDE, J. ***BHARATI DANGRE, J.***