

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5516 OF 2023
WITH
INTERIM APPLICATION NO. 1665 OF 2024
IN
WRIT PETITION NO. 5516 OF 2023

Shri Prashant Shivajirao Sanap .. Petitioner

Versus

State of Maharashtra & ors .. Respondents

Mr. Atul Damle, Senior Advocate with Suresh Sabrad, Amey Sawant, Pratik Sabrad and Eshwanee Kudalkar for the petitioner.

Shri M.M. Pable, AGP for the State.

CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ
DATED : 5th MARCH, 2026

ORAL JUDGMENT (PER BHARATI DANGARE, J) :-

1 Rule. Rule is made returnable forthwith by consent of Parties.

2 The petitioner, a successor-in-interest in respect of land bearing Survey No. 136/42 of village Pokhari, Taluka Nandgaon, District Nashik, is aggrieved by the notice addressed to him by the Range Forest Officer, Kasare dated 29/3/2023, apprising him that the portion of land on which the petitioner has started the work of construction of Agro Private Market, is found to have an entry of 'forest' being recorded.

By the said notice, he is directed to hand over the documents in his possession pertaining to the said land to the Regional Forest Officer, Nandgaon, and since the said land is recorded as 'reserved forest' the activity of construction of the market yard is directed to be immediately stopped or else, an action in terms of the Forest Conservation Act, 1927 is contemplated.

The petitioner responded to the said notice on 31/3/2023, by referring to the mutation entries of his predecessor-in-title and also gave reference of Mutation Entry No.1146 dated 11/3/2014 which is noted pursuant to the registered sale deed dated 31/1/2014.

3 Mr.Damle, the learned senior counsel appearing for the petitioner, by referring to the aforesaid mutation entries including the mutation entry in favour of his predecessor, Babu Murlidhar Sonar, and upon his demise, the said land being mutated in the name of his widow and two legal heirs would submit that the sale deed is executed in his favour by the legal heirs of the owner of the said land for a lawful consideration, and this resulted in a mutation entry being recorded in his name vide entry no.1146, which according to him has no mention of the land being 'reserve forest', though in the rights column, it is mentioned that there is a prohibition on transferring the said land without permission of the competent authority.

4 Contesting the said submissions, the learned Government Advocate by placing reliance upon the affidavit filed on behalf of the Forest Department, submitted that as early as on 9/8/1886, several survey numbers from Pokhari village including Survey No.47 was declared to be a 'reserved forest'. He would submit that in the year 1910, an area of 9.3 acres and four gunthas was excluded from the declared reserved forest and the notification of the Revenue Department published on 16/6/1910, declared that it shall cease to be a reserved forest with effect from 19/7/1910.

By inviting our attention to the documents placed at Exhibit-A of the Petition, where the said land is allotted to Babu Murlidhar Sonar, resident of Nandgaon, subject to the stipulation specified therein, for the purpose of cultivation, it is his submission that the conditions imposed include a condition that the land shall be conserved and if there is any breach of the terms and conditions, subject to which the same is allotted in favour of the allottee, the Collector is empowered to revoke the said grant. According to us, it also impose a condition that the land shall not be transferred to a third party, nor shall it be encumbered in any manner. Similarly, certain restrictions are also imposed on removal of any material from the said land, including stones/pebbles/earth and this grant of land was subject to payment of revenue on an annual basis.

Based on the said document, it is the submission of the learned Government Advocate that the nature of the land

has not undergone a change, though the Government had deemed it appropriate to grant the same for the purpose of cultivation to residents of the village, including the predecessor of the petitioner, but it was subject to several stipulations.

5 The bone of contention between the parties is about the nature of the land, as it is the stand of the Government that it continue to remain as forest land as declared by notification of 9/8/1886, whereas it is the contention advanced on behalf of the petitioner that in the wake of the notification dated 16/6/1910, some portion of land from village Pokhari is declared to have ceased to be a reserved forest and the land in respect of which the petitioner has acquired interest from his predecessor fall within that category.

The aforesaid issue deserve consideration by the competent authority and since we have noted that the petitioner is issued a notice directing him to stop the construction activity on the ground on which the construction is proposed is 'forest land' and he has already submitted his response thereto, we expect the notice to be taken to its logical conclusion by affording an opportunity of hearing to the petitioner and by permitting him to produce the necessary documents, which shall then be juxtaposed against the documents which are in the possession of Revenue and Forest Department to ascertain the actual nature of the land which now stand in the name of the petitioner.

6 In such circumstances, we direct the Competent Officer from the Forest Department to take a final decision on the impugned notice that is issued to which the petitioner has already responded by affording opportunity of hearing to the petitioner to present his case to justify that the land on which he has carried out the construction is not covered by the entry 'forest'.

 It is for the Forest Department to consider as to who is the Competent Officer to grant an opportunity of hearing and to pass an order, on the notice that is issued to the petitioner on 29/3/2023.

7 The learned senior counsel Mr.Damle has invited our attention to the order dated 3/4/2023, when the Writ Petition was moved as the inauguration of the market yard was scheduled and by the said order, the Division Bench of this Court has stayed the impugned notice dated 29/3/2023 temporarily but we are informed that the said order continue to operate till date.

 In the wake of the aforesaid order, as we continue the interim relief till the show cause notice is finally determined by the competent officer from the Forest Department, we however direct that the petitioner shall not change the nature of the land and shall not create any third party interest or encumber the same in any manner whatsoever, till the final decision on the show cause notice is taken by the competent officer.

We direct the Forest Department to adjudicate the show cause notice by considering the reply filed by the petitioner and also by permitting the necessary documents to be brought on record, within a period of three months from today.

Writ Petition is disposed of.

In view of the disposal of Writ Petition, Interim Application do not survive and is disposed of.

(MANJUSHA DESHPANDE,J)

(BHARATI DANGRE, J.)