

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION*

WRIT PETITION NO.3674 OF 2024

Zaheer Usman Wadia
Age:41 years, Occu: Business,
R/o. Rahur, Tal:Bhiwandi,
Dist. Thane.

... Petitioner

Versus

1. The Sub-Divisional Forest Officer,
Mandvi, Thane Office,
Dist. Thane
2. The Forest Range Officer
Padgha, Bhiwandi,
Dist. Thane
3. The Talathi Office
Rahur, Tal:Bhiwandi
Dist. Thane
4. The Group Grampanchayat
Rahur, Tal:Bhiwandi
Dist.Thane
5. The State of Maharashtra
Through Ministry of Environment & Forest,
Mantralaya, Mumbai.
(The Notice of Respondent No.5 be
served upon the office of AGP,
High Court, A.S., Mumbai)

...Respondents

None for the Petitioner.

Mr. M. M. Pable, A.G.P. for the Respondent Nos.1 to 3 and 5-State.

***CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.***

DATE : 18th MARCH 2026

ORAL JUDGMENT (Per Bharati Dangre, J.):

1. When the writ petition was listed before us on 23rd February 2026, none represented the petitioner. We had directed the State to file its affidavit and accordingly the learned A.G.P. has filed an affidavit of Mr. Amol Dinkar Chirame, Assistant Conservator of Forest, Bhiwandi, Thane and we have perused the same. Since none represent the petitioner today, we have perused the pleadings in the petition along with the reliefs sought therein. We deem it appropriate to issue Rule by making it returnable forthwith. Learned A.G.P. waives service on behalf of the respondent Nos.1 to 3 and 5-State.

2. The petitioner, claiming to be in possession of two structures situated at Village Ratur, Taluka Bhiwandi, District Thane,

on land bearing Survey No.48/B, on an area admeasuring from 47 guntas, receipt was served with two notices in respect of the two structures on 4th March 2024 and 7th March 2024 and the notice covered the stone wall compound and a residential house along with the wire fencing and a residential house.

3. The notices placed on record at Exhibit-'B' directed the petitioner to vacate the said structures, since they were situated in Protected Forest Survey No.48 and it was alleged that it was encroached by the petitioner and in light of the orders received from the Sub-Divisional Forest Officer, Mandvi, the notices were issued by the Forest Officer, Padgha asking the petitioner to remove the structures and failure to do so, it was indicated that the structures would be removed by the Government at its own expense and the costs shall be covered from the petitioner.

4. The petitioner responded to the Forest Range Officer on 9th March 2024, admitting that on 8th March 2024 he received the

notices dated 4th March 2024 and 7th March 2024 but it is stated that in the said notices there is a reference of one order/letter dated 27th February 2024 of the Deputy Divisional Forest Officer, Thane, but the said order was never communicated and/or served upon him and since this order was passed behind his back, there is violation of principles of natural justice.

Apart from this objection, no other objection is raised by the petitioner.

5. To the affidavit that is filed before us traversing the pleadings in the petition, the said document being an order passed by the Sub-Divisional Forest Officer, Mandvi, in the form of an order dated 27th February 2024 passed under Sections 53, 54 and 54A under the Maharashtra Land Revenue Code, is annexed. The said order is passed on the application of the Forest Range Officer, Padgha with the petitioner being described as non-applicant and it refers to the Survey No.48 as a Protected Forest and it has a reference to the enquiry report, which has referred to the impugned structures of the petitioner

in form of a stone compound along with residential house and which is described to be an encroachment. It also has a reference to the enquiry report conducted, and the detailed report has concluded that Survey No.48 is a Reserved Forest and the petitioner who has erected structures is not entitled to do so and therefore the Sub-Divisional Forest Officer by invoking the power under Sections 53, 54 and 54A of the Maharashtra Land Revenue Code, passed an order for removal of the encroachment addressing non-applicant i.e. the present petitioner.

6. The petitioner did not bother to attend the said proceedings and infact in the affidavit-in-reply filed by the Assistant Conservator of Forests, has specifically pleaded that the petition is being filed by the petitioner on a premise that he is the legitimate title holder of the Survey No.48/B and the offending structures and he has produced some tax payment receipts. However, it is categorically stated that none of the documents established the title of the petitioner over the subject land and rather the land revenue report in respect of

Survey No.48 and 48/A reflect that the land belongs to the Revenue Department and the offending structure of the petitioner is situated at Survey No.48/A contrary to what he claims that it is situated in Survey No.48/B.

The affidavit-in-reply categorically state that during the routine inspection of the Forest Department, a note was taken of the unauthorised structure of the petitioner and a Forest Offence Report bearing Offence No.11/E/2024 and while doing so panchanama was drawn in presence of independent witness and the extent of structure was recorded and GPS co-ordinates were also noted. The Forest Department thereafter carried out an exercise of identifying the offending structures and demarcating them on the village map being made available by the Revenue Department and the Range Forest Officer, Padgha and Rang Surveyor, Thane Forest Department, Thane, prepared the necessary maps to identify the structures for taking action.

The affidavit-in-reply is accompanied with the Forest Offence Report as well as the panchanama dated 18th February 2024.

7. A categorical statement is made in the affidavit-in-reply to the following effect :-

“6. I say that the Forest Department has again verified the records and confirmed in the Form No. 1 Register maintained by Thane Forest Division and observed that Survey No. 48 admeasuring 7.416 Hectare is protected Forest land and there is Order of diversion passed against the said area. Hereto annexed and marked as EXHIBIT-R3 is the copy of Form No.1 maintained by the Thane Forest Division, Thane.

7. I say that the Round Forest Officer, Padgha has conducted a detailed assessment of the illegal construction on Survey No. 48 which includes Survey No. 48 A and 48B and submitted the enquiry report to the Sub Divisional Forest Officer, Mandavi, Thane for taking further action. I say that the Sub Divisional Forest Officer is authorized to exercise the power to evict the unauthorized occupant on the protected forest, reserved forest and any other land belonging to the Forest Department. The above powers are entrusted to the Sub Divisional Forest Officer by the Govt. Resolution dt. 30.1.1997 issued by the State Government.

8. I say that in view of the Govt. Resolution dt. 30.01.1997. the Sub Divisional Forest Officer has issued Notice dt. 20.2.2024 to the Petitioner for removing the unauthorized constructions within 3 days from the receipt of the Notice.”

8. The affidavit-in-reply also speak about the attempts made to serve the notice upon the petitioner but a categorical statement is made that he could not be found on the spot and the notices were posted at a prominent place outside the entrance of the structure and panchanama to that effect was also drawn on 22nd February 2024. It is therefore the stand of the Assistant Conservator of Forests, that the petitioner is not the resident of Village Ratur, Taluka Bhiwandi, District Thane, and his exact address is not to be found in any records and therefore the statutory notices for initiating proceedings for eviction under the provisions of Indian Forest Act read with Sections 53 and 54 of the Maharashtra Land Revenue Code, 1966 were issued on the last known address available in the records i.e. the address mentioned in the cause-title of the petition.

9. A statement is also contained in the affidavit-in-reply that after the writ petition was filed on 11th March 2024 and circulated before this Court, and the Forest Department visited the site at 11:00 a.m. on 11th March 2024, a partly demolished structure was found and

making it eminently clear that the part of the structure was demolished in the intervening night between 10th March 2024 and 11th March 2024. Further a statement is also made to the effect that when the matter was heard at around 4:30 p.m. on 11th March 2024, a large structure of the offending structure was already voluntarily demolished by the petitioner.

10. In the wake of the above, since we do not find that the petitioner claims the ownership of the said land and infact even according to the pleadings of the petition, he has nowhere stated that he owns the land in Survey No.48/B and rather the pleading is to the effect that he is in the possession of the land on which he has erected the offending structures which he had voluntarily removed and therefore we do not find any merit and substance in the reliefs which are sought in the petition being to quash and set aside the impugned notices dated 4th March 2024 and 7th March 2024. In any case the petitioner has also chosen not to remain present before us and therefore on appreciating the stand adopted by the respondents and

the consideration of the factual aspect that the petitioner is not the owner of the land and that the Survey No.48 is Reserved Forest and this can also seen from the 7/12 Extract as regards Survey No.48, we dismiss the writ petition. Rule is discharged.

MANJUSHA DESHPANDE, J.

BHARATI DANGRE, J.