

Ajay

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

WRIT PETITION NO. 51 OF 2026

Ajay Madhukar Shikare

.. Petitioner

Versus

Union of India and Ors.

.. Respondents

-
- Ms. Chandana Salgaocar, Advocate for Petitioner.
 - Ms. Yashashree Raut, Advocate i/by Ms. Manisha Jagtap for Respondent No.1 – Union of India.
 - Ms. Pooja Patil, AGP for Respondent Nos.2 to 6.
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 16, 2026.

P.C.:

1. Heard Ms. Salgaocar, learned Advocate for Petitioner; Ms. Raut, learned Advocate for Respondent No.1 – Union of India and Ms. Patil, learned AGP for Respondent Nos.2 to 6.

2. By consent of the parties, present Petition is heard finally and disposed by the following order.

3. Petition assails legality, propriety and validity of the orders dated 07.12.2020 passed by the Sub-Divisional Officer in R.T.S. Appeal No.48 of 2020; 16.11.2021 passed by Respondent No.4- Additional Collector in Second R.T.S. Appeal No.593 of 2020; 20.09.2022 passed by Additional Divisional Commissioner, Pune Division in RTS/Re/Pune No.43 of 2022; 28.11.2025 passed by Hon'ble Minister for Revenue,

Maharashtra in RTS Revision Application No.3425/1223/Pr/Kr.449/J-5 and consequential direction for cancellation of Mutation Entry No.38909 in Revenue Record in respect of Survey No.59, Hissa No.1/4/6, Hadapsar, Taluka – Haveli, District – Pune (for short '**the said land**').

4. Facts are admitted and undisputed save and except challenge maintained to the action of the State and its functionaries under the provisions of Maharashtra Land Revenue Code, 1966 (for short '**MLR Code**') read with the Maharashtra Private Forests (Acquisition) Act, 1975.

5. Briefly stated, Petitioner is the admitted owner of the said land bearing Survey No.59, Hissa 1/4/6 situated in Hadapsar, Pune, District – Pune, it admeasures appropriately 27 Acres 23 Gunthas. Petitioner purchased the said land by a registered Sale Deed dated 12.10.1987, pursuant to which Petitioner's name was mutated in the Revenue Record in regard to the said land vide Mutation Entry No.12225.

6. Petitioner entered into a registered Development Agreement dated 17.06.2006 with M/s. Nilesh Developers. In the year 2019, Petitioner through the Developer discovered that name of the State Government of Maharashtra was entered into the other rights column of the Revenue Record i.e. 7/12 extract in regard to the said land vide

Mutation Entry No.38909 designating the said land as forest. Admittedly Petitioner was never put to notice neither any due process of law was followed by Respondent Nos.1 to 5 for mutating the name of State Government of Maharashtra and designating the said land as 'Reserved Forest' vide Mutation Entry No.38909. Copy of the said Mutation Entry is appended below Exhibit 'C' at page No.23 of the Petition.

7. Ms. Salgaocar, learned Advocate for Petitioner would vehemently submit that apart from the fact that the State and its functionaries have acted arbitrarily and high handed, they did not follow the due process of law which is the admitted position, said land belonging to the Petitioner is attempted to be usurped by the State as 'Reserved Forest' land on the basis of the said Mutation Entry. While drawing my attention to the remarks inserted with regard to the said Mutation Entry in the property card, she would submit that the said Mutation Entry is inserted on the basis of oral instructions received by Respondent No.5 from Respondent No.3 on the basis of letters dated 04.06.2009 and 10.06.2009. Copies of these two letters are appended below Exhibit 'D' at Page No.24 and Exhibit 'E' at page No.26 respectively. She would submit that no notice of hearing was ever given to Petitioner before mutating the name of the State Government in regard to the said land as 'Reserved Forest'.

7.1. On the issue of merits and entitlement, Ms. Salgaocar would draw my attention to the Bombay Gazette No.2918 dated 17.04.1889 (known as 1889 Gazette Notification) appended below Exhibit 'F' at page No.28 of Petition by which from 01.05.1889 land specified in the schedule thereunder was declared to be de-reserved as forest in Haveli Taluka of Poona. She would draw my attention to the schedule mentioning Survey No.59 of village Hadapsar, Taluka – Haveli, District – Pune as stated therein being applicable to the said land.

7.2. She would submit that in similar instances the State Government had previously in 2012 and 2013 mutated its name and designated certain other similarly placed lands as 'Reserved Forest', but after the said action having been protested and challenged, the State Government vide its own orders have directed removal and deletion of the said Mutation Entry and remark. She would refer to and rely upon two such orders dated 22.08.2012 and 07.06.2013 appended below Exhibit 'G' at page Nos.31 & 37 respectively of the Petition in respect of lands in similarly situated circumstances, *inter alia*, however pertaining to lands contained in Survey No.59 itself belonging to other persons.

7.3. Hence, being aggrieved, Petitioner challenged Mutation Entry No.38909 in RTS proceedings before the Sub-Divisional Officer (for short '**SDO**') unsuccessfully. The order dated 07.12.2020 passed by

the SDO rejecting the appeal was further appealed unsuccessfully before the Additional Collector in statutory RTS Appeal. The order dated 16.11.2021 passed by the Additional Collector was further challenged in Revision before the Additional Divisional Commissioner, once again unsuccessfully. The order dated 20.09.2022 passed by the Additional Divisional Commissioner was rejected by virtue of the impugned order dated 28.11.2025 passed by the State in RTS second Revision proceedings.

7.4. The aforesaid orders and the consequential Mutation Entry No. 38909 are the subject matter of challenge in the present Petition. It is the case of Petitioner's that by virtue of Gazette Notification dated 17.04.1889 issued under Section 26 of the Indian Forest Act, 1878, Survey No.59 of village Hadapsar, Taluka – Haveli, District – Pune was declared to be de-reserved as forest from 01.05.1989 and once the said reservation of forest was removed in the year 1889, redesignating the portion of the same Survey No.59 as 'Reserved Forest' in 2019 after 120 years without following the due process of law is impermissible and illegal on the part of the State and its functionaries.

7.5. She would submit that Petitioner cannot be discriminated *qua* similarly situated cases and persons wherein the Revenue Authorities have removed and deleted the mutation categorizing lands in Survey No.59 as 'Reserved Forest' when protested. Petitioner has

also submitted that merely acting on the basis of the letters issued in the year 2009 the alleged mutation cannot be carried out designating and categorizing the said land belonging to Petitioner as 'Reserved Forest' on the basis of carrying out a correction of Mutation Entry which was a long standing Mutation Entry since year 1889. She would contend that the Central Government has not initiated any drive for insertion of 'Reserved Forest' entry in the other rights column enabling the State to act in such an arbitrary manner without following the due process of law and trample the substantive settled rights of the Petitioner.

7.6. The Court is persuaded by the Petitioner to consider the State's action in similarly placed circumstances and cases in order to set aside the impugned orders and consequential categorization of the said land as 'Reserved Forest' in the interest of justice and restore the *status quo ante*.

8. **PER CONTRA**, Ms. Patil, learned AGP appearing on behalf of State namely Respondent Nos.2 to 6 draws my attention to the Affidavit-in-Reply filed by Respondent Nos.4 and 5 dated 02.02.2026 and would contend that the question in the present case is not whether the said land was reserved forest or not, but whether once the said land was designated as 'Reserved Forest' in the Revenue Record, then whether the same could be deleted without the prior permission of

Respondent No.1 – Union of India, particularly in light of the specific directions issued by the Ministry of Environment and Forests in its communication dated 19.03.2014 appended below Exhibit 'L' at page No.67 to the Petition.

8.1. She would draw my attention to the said communication / letter wherein it is stated that any correction in Revenue Record to change the status of land recorded as 'Forest' to 'Non-forest' amounted to de-reservation of forest and if such an act is required to be done, it will require not only prior approval of the Central Government in accordance with the provisions of Section 2(i) of the Forest (Conservation) Act, 1980, but also prior leave of the Supreme Court.

8.2. In this background, she would submit that the letter dated 10.06.2009 which is the precursor letter addressed by the District Collector, Pune noted that in a Report prepared by the Central High-Power Committee constituted pursuant to the directions issued by the Supreme Court, an Interim Report was referred to therein wherein it was observed that within the city of Pune, out of 36,700 notified reserved forests lands, 21,750 forest lands have not been notified. She would submit that in that view of the matter, it was decided to adopt steps after a decision in the joint meeting held between the Forest Department officials and the Revenue Department officials on 02.06.2009 for the purpose of identifying such originally reserved

forest lands and redesignate them as 'Reserved Forest' in the name of Respondent No.2 – State which had stood excluded from the Revenue Record previously.

8.3. She would submit that while doing so, the Gazette Notification dated 01.03.1879 issued by the Revenue Department was also referred to and made a part of communication for the purpose of inserting name of the State Government in the other rights column as 'Reserved Forest'. She would fairly submit that it was only pursuant to the aforesaid joint decision by the Department of Forest and Revenue, an oral direction was given thereafter Mutation Entry No.38909 was recorded and inserted accordingly in the other rights column in respect of the said land belonging to Petitioner. She would submit that the action taken by the State functionaries is statutory in nature and does not suffer from any vice whatsoever. She would submit that despite the Notification dated 17.04.1889 having been passed under the Indian Forest Act, 1878 deleting the said land as 'Reserved Forest and the said entry having been corrected, no steps as such could be taken by the State now in deleting the entry of 'Reserved Forest' without prior approval and consent of Respondent No.1 - Union of India. She would submit that this fact has been noted by all Statutory Authorities who have considered the challenge of Petitioner in the impugned orders by giving appropriate reasons and hence if at all now the mutation is to be reversed then permission of the Respondent No. 1

was mandatory.

8.4. She would submit that in view of the binding instructions issued by Respondent No.1 – Union of India, the State functionaries and Statutory Authorities have considered it inappropriate to delete Mutation Entry No.38909. She would submit that the impugned orders are not without jurisdiction and have been passed taking into account the binding directions of Respondent No.1. Hence she would persuade the Court to dismiss the Petition.

9. I have heard Ms. Salgaocar, learned Advocate for Petitioner; Ms. Raut, learned Advocate for Respondent No.1 – Union of India and Ms. Patil, learned AGP for Respondent Nos.2 to 6 and with their able assistance perused the record of the case. Submissions made by the learned Advocates at the bar have received due consideration of the Court.

10. In the present case it is an admitted position that by virtue of the Bombay Gazette No. 2918 dated 17.04.1889 (known as 1889 Gazette Notification) the remark in the other rights column in respect of Survey No. 59, Hissa No. 1/4/6, Village Hadapsar, Taluka Haveli, District Pune was mutated and since then the entire land comprised in Survey No. 59 was free from the said encumbrance. Petitioner's said land is part of Survey No. 59. This position prevailed for 120 years until in 2019 without following the due process of law by virtue of

Mutation Entry No. 38909, the remark 'Reserved Forest' was reinserted in the 7/12 extract of the said land. The discrimination and dichotomy in the present case is *prima facie* evident on the face of record.

11. In similarly placed cases, the concerned Statutory Officers have on appropriate Appeal having been filed against insertion of such an entry of 'Forest' have allowed the Appeal. One such order is the order dated 20.04.2018 passed by the SDO in RTS Appeal No. 593/2017 in respect of the same Survey number i.e. Survey No. 59 regarding Gat No. 1/2/2 pertaining to Mutation Entry No. 37730 which has been directed to be set aside and removed. Said order is placed before the Court by Ms. Salgaocar. On perusal of the said order, it is seen that there is a direct reference to Gazette Notification No. 2918 dated 17.04.1889 therein on the basis of which adhering to the provisions of Indian Forest Act, 1878, and more specifically Section 26 thereof in similarly placed cases remark of 'Reserved Forest' in the 7/12 extract through Mutation Entry Nos. 44846, 42817 and 43922, once again with regard to same Survey No. 59(part) has been deleted. Having taken that into cognizance, the SDO therein has passed order dated 20.04.2018. Case of the Petitioner before me is also absolutely identical and more specifically so in respect of the same Survey number 59. However, the same benefit has not been extended to the Petitioner by the Statutory Officers for reasons best known to them.

12. It is seen that directions for insertion of the contentions Mutation Entry of 'Reserved Forest' in 7/12 extract was taken pursuant to the meeting held on 15.06.2009 of the Officials of the Revenue and Forest Departments and it was not carried out under any order of the Court, any direction given by the Court or Union of India or Statutory Authority or either by operation of law. In the order passed by the Additional Divisional Commissioner dated 20.09.2022 in the present case which is appended at page No. 87 onwards of the Petition in paragraph No. 5.3, the learned Additional Divisional Commissioner has accepted the fact that insertion of 'Reserved Forest' entry in the Revenue Record / 7/12 extract of the land belonging to the Petitioner was not done by operation of law or under any Court's order. However it is opined therein that in view of the Notification issued by Ministry of Environment and Forests in its communication dated 19.03.2014, if at all entries are to be now reversed in the 7/12 extract, *inter alia*, pertaining to 'Reserved Forest' then in that case permission of Union of India and / or the Hon'ble Supreme Court would be required and therefore there is direction given in that order that the Forest Department should make an appropriate Application seeking sanction from the said Authorities in accordance with law and until then the said Mutation Entry cannot be reversed.

13. In this regard it would be appropriate to refer to the decision of the Division Bench of this Court in the case of ***Rasik Narsingh***

Chauhan & Ors. v. The State of Maharashtra & Ors.¹ wherein Court was also seized with a somewhat similar situation, *inter alia*, relating to lands being designated as "Reserved Forest" in the 7/12 extract on coming into force of the Maharashtra Private Forests (Acquisition) Act, 1975. The Court discussed the provisions of the Indian Forest Act, 1927 read with Maharashtra Private Forests (Acquisition) Act, 1975 and the Forest Conservation Act, 1980 while answering the aforesaid issue directing insertion of 'Reserved Forest' remark in respect of the land in accordance with law. In this regard paragraph No. 20 of the said decision becomes directly relevant which reproduces the provisions of Section 1-A as inserted by amendment Act of 2023 in the Forest (Conservation) Act, 1980. Section 1-A states that the land that has been declared or notified as a forest in accordance with the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force or the land that is not covered under clause (a) above but has been recorded in the Government record as forest, as on or after 25.10.1980 will be covered by the provisions of the said Act. There is proviso to Section 1-A which states that the provisions of this clause shall not apply to such land, which has been changed from forest use to use for non-forest purpose on or before 12.12.1996 in pursuance of an order, issued by any authority authorized by a State Government or an Union Territory Administration in that behalf. The

¹ Judgment dated 24.12.2025 in Civil Writ Petition No. 3511 of 2022

proviso to this Act clearly applies to the present case of Petitioner before me.

14. By virtue of Gazette Notification of 1889, the land belonging to Petitioner in Survey No. 59 has been dereserved as forest by virtue of Mutation Entry No. 12225. Once that is the position, the land belonging to Petitioner cannot be unilaterally reserved for forest without following the due process of law and certainly not by virtue of the decision taken in the joint meeting of the State functionaries which has so been done in the present case. There are two similarly placed cases and orders passed by the State Government in 2012 and 2013 which have been placed on record at Exh. G, page Nos. 31 and 37 of the Petition wherein the State functionaries have taken appropriate decision of reversing the entries in view of the dereservation of the said Survey numbers by virtue of Gazette Notification of 1889. In both those cases, the stand adopted in the present case requiring permission of the Union of India has not been taken by the State while reversing the entry. Thus merely on the basis of oral instructions and the directions contained in the twin letters dated 04.06.2009 and 10.06.2009 which do not have any force of law whatsoever, designation of Petitioner's land as 'Reserved forest' vide Mutation Entry No. 38909 made in 2019 is a colourable exercise of power and is clearly unsustainable in law and is therefore quashed and set aside.

15. The argument advanced by Respondents and more specifically Respondent Nos. 2 to 5 as seen from paragraph No. 8 of the affidavit in reply filed by Respondent Nos. 4 and 5 cannot be countenanced at all. Respondents have already committed an error rather grave error in unilaterally mutating the name of the State and inserting the entry 'Forest' in the 7/12 extract pertaining to the said land without following the due process of law. Now in order to rectify the said error, Respondents expect that permission of the Central Government should be obtained if the status of 'Reserved Forest' is required to be changed to "Non-Forest" status. However Respondents need to acknowledge the fact that they have committed a mistake in inserting the entry of 'Reserved Forest' in the 7/12 extract of the land belonging to Petitioner without following the due process of law altogether. Such action on the part of State functionaries cannot be accepted and deserves to be dealt with strictly. In that view of the matter, Mutation Entry No. 38909 effected by Respondent Nos. 2 to 5 in regard to Petitioner's land in the year 2019 without following the due process of law is quashed and set aside. The remark made in the impugned Mutation Entry in 7/12 extract pertaining to Petitioner's land as 'Reserved Forest' is unsustainable and the said remark is hereby directed to be quashed and deleted from the impugned Mutation Entry along with the name of State in the other rights column therein. These directions shall be complied with by Respondent Nos. 2 to 5 within a

period of four weeks from today positively. All impugned orders passed by the State functionaries are quashed and set aside.

16. Writ Petition is allowed in terms of prayer clause (b) and disposed of in the above terms. Though the Petition is disposed of, the same is directed to be placed for reporting compliance on **23rd March, 2026.**

17. All concerned are directed to act on a server copy of this order downloaded from the Bombay High Court website forthwith.

[MILIND N. JADHAV, J.]

Ajay

Digitally
signed by
RAVINDRA
MOHAN
AMBERKAR
Date:
2026.02.19
18:36:00
+0530