

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2826 OF 2026

Bhushan Vijay Vartak

.. Petitioner

Versus

The District Collector, District Palghar and Ors. .. Respondents

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- Mr. Arshad Shaikh, Senior Advocate a/w Mr. S.R. Nargolkar, Mr. S.S. Nargolkar & Ms. Shreevidya Nargolkar, Advocates for Petitioner
- Ms. Neha S. Bhide, G.P. a/w Ms. S.D.Vyas, Addl. G.P. and Ms. Pooja Patil, AGP for Respondents - State

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 05, 2026

P. C.:

1. Heard Mr. Shaikh, learned Senior Advocate for Petitioner and Ms. Bhide, learned Government Pleader for Respondents – State.

2. Writ Petition assails impugned Order dated 10.12.2025 passed by Respondent No.1 – District Collector, Palghar, *inter alia*, rejecting Application filed by Petitioner seeking updation of Mutation entry in the Revenue Record as directed by concurrent orders passed by the Sub-Divisional Officer (for short “**SDO**”) and Maharashtra Revenue Tribunal (for short “**MRT**”) in proceedings under the Maharashtra Private Forest (Acquisition) Act, 1975 (for short “**MPF Act**”) and Maharashtra Land Revenue Code, 1966 (for short “**MLR Code**”). By virtue of concurrent orders the SDO and MRT held that

Petitioner's lands were "agricultural lands" and not "private forest lands" and accordingly directed removal of the entry "forest" and updation by way of Mutation in the Revenue Record. The District Collector did not implement the said orders and directions resultantly leading to filing of the present Petition.

3. Briefly stated, lands described in paragraph No.4 of the Petition belong to Petitioner (for short "**subject lands**"). The subject lands were "*inam*" lands which were granted to the owners i.e. predecessors-in-title of Petitioner under the provisions of Maharashtra Land Revenue Code, 1966 (for short "**MLRC**") read with the The Bombay Personal Inams Abolition Act, 1952 (for short "**BPIA Act**"). The subject lands are "agricultural lands" which are subject to the provisions of the Maharashtra Agricultural Lands (Ceiling on Holding) Act, 1961 (for short "**MAL Act**"). By detailed order dated 05.06.2015, the SDO recorded a finding that the subject lands are "agricultural lands" and not "private forest lands", under the provisions of Section 6 of the MPF Act and this was because on the enactment of MPF Act without issuing notice to Petitioner or owners of the subject lands merely to bring the subject lands under the purview of the said Act, the said lands were designated as "private forest lands" in the Revenue Record.

4. Admittedly all along and even thereafter, Petitioner and his predecessors-in-title continued paying the assessment as determined and cultivated the subject lands. However because the subject lands being designated as “private forest lands”, Appeal under Section 6 was filed by Petitioner before the SDO. By a detailed order dated 05.06.2015 SDO held that the subject lands are “agricultural lands” and not “private forest lands”, however he directed that the said order would come into effect only after obtaining permission from the Central Government. Both, the State and Petitioner filed 2 separate Appeals before the MRT. Petitioner filed Appeal to the limited extent of challenging the direction issued by SDO that permission from the Central Government should be obtained and only thereafter the order would come into effect.

5. By common order dated 19.04.2023, MRT dismissed the Appeal filed by the State and upheld the SDO’s order, however while doing so the MRT deleted the directions contained in the SDO’s order about the order coming into effect after obtaining permission from the Central Government as per the Indian Forest (Conservation) Act, 1980. In effect MRT granted full relief to the Petitioner. Petitioner therefore applied for implementation of MRT’s order seeking appropriate mutation in the Revenue Record *qua* the subject lands. The Collector by virtue of the impugned order dated 10.12.2025 rejected Petitioner’s

Application on the premise that the same will require prior approval of the Central Government in accordance with provisions of the Section 2 of the Indian Forest (Conservation) Act, 1980.

6. Hence, the present Petition.

7. Mr. Shaikh, learned Senior Advocate along with Mr. Nargolkar appearing for the Petitioner would submit that by virtue of statutory order in Appeal dated 05.06.2015 passed under Section 6 of MPF Act the subject lands have been declared as “agricultural lands”. They would draw my attention to the above order appended at Exhibit “C” and contend that the said order has become final and absolute. The said order is appended at page No.34 to 87 of the Petition. I have perused the same. They would submit that in that view of the matter reliance placed by Respondent No.1 – Collector on the letter dated 19.03.2014 which is in the nature of general directions issued by the Assistant Inspector General of Forest should not be countenanced. They would vehemently submit that the directions contained in the said letter would apply only if the subject lands were “private forest lands” and nomenclature of such “private forest lands” was to be mutated to “not private forest lands”.

8. They would argue that in the present case, Respondent No.1 - Collector has relied upon the Report dated 17.10.2025 of the

Deputy Conservator of Forest while passing the impugned order, however the said Report is contrary to the judgment and order dated 19.04.2023 passed by the MRT dismissing the statutory Appeal of the State. They would submit that concurrent orders dated 05.06.2015 and 19.04.2023 passed by the SDO and MRT have become absolute and final and have not been challenged further by the State in any proceedings. Hence they would submit that the impugned order is not only contrary to the concurrent orders passed by the SDO and MRT but directly in the teeth of the decision of the Supreme Court in the case of *Godrej & Boyce Mfg. Co. Ltd. and Another Vs. State Of Maharashtra and Ors.*¹ and the recent decision of the Supreme Court in the case of *Rohan Vijay Nahar Vs. the State of Maharashtra*² and hence they would persuade the Court to allow the present Petition.

9. **PER CONTRA**, Ms. Bhide, learned Government Pleader appearing alongwith Ms. Patil, learned AGP on behalf of Respondents-State would oppose grant of relief prayed for in the Petition and would draw my attention to the Affidavit-in-Reply dated 23.02.2026 filed on behalf of Respondent No.1 – Collector appended at page No.195 of the Petition. She would submit that Respondent No.1 – Collector called for a Report from the Deputy Conservator of Forest while considering the Application for mutation and deletion of the entry “private forest”

1 2014 3 SCC 430

2 Civil Appeal No.5454 of 2019 decided on 07.11.2025.

pertaining to lands belonging to Petitioner. She would submit that the Deputy Conservator of Forest in his Report made the following observations:-

“

(iii) In the Report of the Deputy Conservator of Forests following observations are conveyed:

(a) Proceedings under Section 35(3) of the Indian Forest Act, 1927 had been undertaken in respect of the concerned areas and forest notifications were issued.

(b) The lands are recorded in the Forest Department records and Village Forest Form No.1 as forest lands.

(c) The lands are treated as "संपादितवन" (acquired forest).

(d) The lands fall within the definition of private forest under the Maharashtra Private Forest (Acquisition) Act, 1975 and stood vested in the State Government on 30.08.1975.

(e) The lands form part of forest working plan and forest management area of the Forest Department.

(f) Under Rule 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, the District-level Forest Rights Committee, Palghar has approved individual forest rights claims as Vanpattedharak for area admeasuring 8.4732 hectares in Gat No. 319 of village Abitghar, Taluka Wada, and 8.4615 hectares in Gat No. 91 of village Mhaswal, Taluka Wada, in favour of 20 claimants.

(g) The Forest Department further recorded that even if revenue entries exist, alteration of such entries affecting forest land would not be permissible without approval of the Central Government under the Forest (Conservation) Act, 1980. Hereto annexed and marked as Exhibit A is a copy of the said Report dated 17/10/2025, of the Deputy Conservator.

(iv) The Government Circular Circular No. एस-10/2025/ प्र.क्र. 140/Q-3 dated 11 September 2025 referred to herein above directs that provisions relating to conversion of Occupant Class-II to Class-I shall not be applied to forest lands. Hereto annexed and marked as Exhibit B is a copy of the said Government Circular Circular No. एस-10/2025/ प्र.क्र. 140/Q-3 dated 11 September 2025.

(v) The Collector office Palghar issued a letter to the Deputy Conservator of Forests office Jawahar interalia inquiring whether any Appeal has been preferred against the Order dated 19.04.2023 passed by the MRT. It is submitted that since the land area in the Petition is a private forest, it is necessary to implead the Forest Department a party Respondent in present Petition.

.....”

10. After taking me through the above observations, she would submit that Respondent No.1 - Collector declined to alter the Revenue Record since Petitioner's Application was not merely restricted to deletion of entry pertaining to "private forest" but it simultaneously related to conversion of occupant Class-II lands to Class - I lands. She would submit that in accordance to Government Circular dated 11.09.2025 such conversion cannot be applied to lands designated as "private forest lands".

11. Next, she would submit that directions contained in the letter dated 19.03.2014 clarify that correction of revenue entry showing "private forest lands" as "non-private forest lands" amount to de-reservation of "private forest lands" which is impermissible under Section 2 of the Indian Forest (Conservation) Act, 1980 unless permitted by the Central Government. She would submit that in such a case no State Government or Authority can convert revenue entry of "forest lands" to "non-forest purpose" i.e. carry out de-reservation of "forest lands" without prior approval of the Central Government. Hence, she would submit that the Collector refrained from altering the Revenue Record, tenure conversion, 7/12 extract, or implementation of orders passed by the SDO or MRT in case of Petitioner's lands.

12. She would submit that in view of the above circumstances, Respondent No.1 - Collector will have no jurisdiction to

delete the revenue entry of “forest” and convert it to “non-forest” in accordance with the MRT order without Petitioner being granted approval by the Central Government. She has drawn my attention to the twin concurrent orders and would submit that the directions contained in the order dated 05.06.2015 passed by learned SDO are as follows:-

“11. ...The directions contained in the Order dated 05-06-2015 passed by the Ld. SDO that a proposal to obtain permission from the Central Government be sent from the office of the Collector Palghar District came to be deleted by the Order of the Hon'ble Tribunal dated 19-04-2023. Further, as per the provisions of Section 2 of the Forest (Conservation) Act, 1980, which provides for restriction on de-reservation of forests or use of forest land for non-forest use, it prohibits use of forest land for non-forest use without prior approval of the Central Government. Further, the clarification issued by the Central Government that that correction of revenue entries showing "forest land" as "non-forest" amounts to de-reservation of forest land and as per Section 2 of the Forest (Conservation) Act, 1980, no State Government or authority can permit non-forest use or reduce forest area without prior approval of the Central Government. Therefore, any alteration of 7/12 extract, tenure conversion, or implementation of orders affecting such land cannot be undertaken by the answering respondent without the prior approval of the Central Government.”

13. On the basis of the above submissions, she would submit that the order passed by the Collector is correctly passed in accordance with law.

14. I have heard the rival submissions and perused the record of the case with the able assistance of the learned Advocates at the bar. Submissions made by learned Advocates have received due consideration of the Court.

15. In the present case it is seen that pursuant to declaration made by the Competent Authority i.e. the judgment and order dated 05.06.2015 passed by SDO in exercise of appellate powers conferred under Section 6 of the MPF Act the lands which form the subject matter of the present Petition cannot be regarded and treated as “private forest lands”. The Petitioner’s lands are concluded to be agricultural lands and not “forests” on the basis of the reasons given therein. It is seen that the said judgment and order has been confirmed and upheld by the MRT in the Appeals filed under the MPF Act by the State as well as the Petitioner. The judgment and order dated 19.04.2023 passed by the MRT in Appeal No FOR/APL/PAL/7/18 and FOR/APL/PAL/6/18 clearly holds that the claim of the State to the said lands as “forest” needs to be negated and the requirement to apply to the Central Government for deletion of entries from the Revenue Records in terms of the Forest (Conservation) Act, 1980 is bad in law. With this modification the Appeal filed by the State has been dismissed and the judgment and order dated 05.06.2015 passed by the SDO has been upheld and confirmed in favour of the owners of the said lands. The judgment and order dated 19.04.2023 of the MRT is appended below Exhibit "D" of the Petition.

16. It is seen that the contention of the Forest Department that since notices under Section 35(3) of the Indian Forest Act, 1927 (for short "**Central Act**") were issued to the land owners in respect of the subject lands on the appointed day i.e., 30.08.1975 (date of enactment of the MPF Act) and Notification was issued under Section 35(1) subject lands stood automatically acquired and designated as forests and stood vested in the State in terms of Section 3(3) of the MPF Act and a possession panchnama of the land at Mhaswal was made on 31.08.1975. Hence it is argued that provisions of the MPF Act and the Central Act are applicable to the subject lands and the subject lands are/were "forest lands". However in the appellate proceedings under Section 6 of the MPF Act, it was specifically pointed out by Petitioner / other owners that the subject lands were infact '*inam*' lands, and therefore, there was no question of any notice being issued under the provisions of the Central Act to the subject lands. It was further contended and upheld that the said lands were regranted to the owners / predecessors-in-title in terms of the provisions of MLRC, read with the Bombay Personal Inams Abolition Act. It is seen that on the alleged date of service of notice purportedly issued under the Central Act, the lands vested in the State of Maharashtra by virtue of provisions of the Bombay Personal Inams Abolition Act. It is seen that the alleged panchnama relied upon by the State is a paper panchnama

which was recorded on a Sunday and this demonstrates that the same was not drawn up in a *bona fide* manner without issuing notice to the land owners and was not made in a manner known to law. It is pertinent to note that no notice was given to the owners before the Panchnama was recorded and this is shown to have been done just on the date on which the MPF Act was brought into force and it was done merely to bring the lands within the purview of the MPF Act without following the due process of law. It was in these circumstances that the entry of “forests” was inserted / mutated in the revenue record of the said lands which has been directed to be deleted. This is not a case where Petitioner’s lands were designated as “forests” or were forest lands right from inception and his case is to change the user of the same by way of present proceedings.

17. In any case, the Government, upon re-grant of the land, called upon the owners to pay the tax in terms of the assessment made which is based upon the factum of the lands being “agricultural lands”. It is seen that the owners paid the assessed tax as demanded by the Government. The assessment demand and payment of the tax clearly establishes the factum of possession of the land with the owners, cultivation of the same as "agricultural lands", and title to the same as 'allottees'.

18. Furthermore, it is seen that the said lands were subjected to inquiry under the provisions of the Maharashtra Agricultural Lands (Ceiling on Holding) Act and upon enquiry as contemplated by the said Act, 31.14 acres of the said lands was declared as surplus, thus further establishing not only the title and possession of the owners over the said lands but also the fact that the lands were being cultivated as “agricultural lands”.

19. It is seen that thereafter due to revision of the ceiling limit under the Maharashtra Agricultural Lands (Ceiling on Holding) Act, an additional area of 8 acres of land was declared as surplus and possession of the surplus land was taken over. Further record shows that from this surplus area of 40 acres acquired by the Government under the MAL Act, certain parcels of land were distributed to landless persons by the Government. In view of all these facts it clearly establishes that the subject lands were being actively cultivated as “agricultural lands”. It is further seen that the two concurrent orders under the Maharashtra Agricultural Lands (Ceiling on Holding) Act were subjected to challenge before the Additional Revenue Commissioner who by order dated 13.02.1989 finally decided the proceedings. The order dated 13.02.1989 was not challenged any further and has become absolute.

20. These orders treating the lands as “agricultural lands” have not been challenged by the State Government and have attained finality. In this view of the matter, Section 3(2) of the MPF Act, becomes relevant, which lays down that nothing contained in subsection (1) of Section 3 shall apply to such land as is held by an occupant and is lawfully under cultivation and is not in excess of the ceiling area prescribed by Section 5 of the MAL Act. Thus, in that view of the matter it is clear that the State itself had treated these lands as “agricultural lands” in the possession of the owners.

21. The Forest Department defended the proceedings by raising several contentions as aforementioned. Detailed submissions were made before the SDO, Wada. The SDO, by order dated 05.06.2015 recorded cogent findings of facts, recorded sufficient and proper reasons in support thereof and allowed the Application of the land-owners on merits and it was concluded that the subject lands are “agricultural lands” and are not “private forests”. This declaration was issued under Section 6 of the MPF Act. However, the SDO directed that the order would come into effect after obtaining permission from the Central Government.

22. The State filed Appeal No. 07/2018 against the said order of the SDO declaring the subject lands “agricultural lands” and not “private forest lands”. The land-owners filed Appeal no. 06/2018 to

the limited extent of the direction that permission from the Central Government was not required to be obtained in the above facts.

23. Both the Appeals were heard together and by judgment and order dated 19.04.2023, MRT dismissed the Appeal filed by the State, thereby upholding the order dated 05.06.2018 passed by SDO, Wada. The Appeal filed by the land-owners was allowed and clauses (4) and (5) of the impugned order were deleted. Thus, it has been conclusively held that the lands are not “forest lands” but are “agricultural lands”. The State has not challenged the order passed by the MRT and the same attained finality.

24. In view of the finality of the above proceedings, Petitioner made Application dated 12.09.2025 seeking mutation to the revenue record to the Respondent No.1 – Collector. It is pertinent to note that the State has not challenged the judgement and order dated 19.04.2023 passed by the MRT and thus the said judgment and order has become absolute and final. By virtue of the said judgment order dated 05.06.2015 passed by SDO in Appeal filed under Section 6 of the MPF Act has been upheld. The findings in the SDO’s order amounts to a declaration issued under Section 6 of the said Act.

25. It is *prima facie* seen that the subject lands have all along been in possession of Petitioner / owners and are declared as

“agricultural lands”. Further from the orders passed by the Competent Authority under the MAL Act, the inquiry has declared “surplus lands” and after due revision of the ceiling limit, the “surplus lands” were acquired by the Government under the said Act and certain parcels thereof were distributed to landless persons by the Government.

26. It is seen that these facts categorically establish that the lands are / were being actively cultivated as “agricultural lands”. It is further seen that orders passed under the MAL Act in respect of the subject lands were challenged before the Additional Revenue Commissioner in statutory Appeal proceedings. It is seen that by order dated 13.02.1989 the Additional Revenue Commissioner declared the subject lands as “agricultural lands” which order has become absolute and final. Thereafter assessment has been levied on the subject lands and duly paid by Petitioner / owners for cultivating the subject lands. Thus, in view of this factual background, provisions of Section 3(2) of the MPF Act apply in the present case. Section 3 of the MPF Act reads thus:-

“3. Vesting of private forests in State Government.— (1) Notwithstanding anything contained in any law for the time being in force or in any settlement, grant, agreement, usage, custom or any decree or order of any Court, Tribunal or authority or any other document, with effect on and from the appointed day, all private forests in the State shall stand acquired and vest, free from all encumbrances, in and shall be deemed to be, with all rights in or over the same or appertaining thereto. the property of the State Government, and all rights, title and interest of the owner or any person other than Government subsisting in any such forest on the said day shall be deemed to have been extinguished.

(2) Nothing contained in sub-section (1) shall apply to so much extent of land comprised in a private forest as is held by an occupant or tenant and is lawfully under cultivation on the appointed day and is not in excess of the ceiling area provided by section 5 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 (Mah. XXVII of 1961), for the time being in force or any building or structure standings thereon or appurtenant thereto.

(3) All private forests vested in the State Government under sub-section (1) shall be deemed to be reserved forests within the meaning of the Forest Act.”

27. From the above, it is clear that Section 3(2) of the MPF Act which lays down that nothing contained in Sub-section 1 of Section 3 shall apply to such lands as is held by an occupant and is lawfully under cultivation and is not in excess of the ceiling area prescribed under Section 5 of the MAL Act. Thus it is seen that the State Government and the Deputy Conservator of Forest have accepted the orders / declarations dated 13.02.1989 passed by the Additional Revenue Commissioner under the MAL Act and declaration issued under Section 6 of the MPF Act by the SDO which is upheld by the MRT and therefore once the said declaration has become absolute and final and not being further challenged by the State, the Petition has to succeed.

28. In so far as directions relating to obtaining Central Government's permission is concerned the said directions cannot apply to the lands of Petitioner before me. The said directions would apply only in case of mutation pertaining to designated “private forest lands”

and not otherwise. In the present case once there is declaration under Section 6 of MAL Act which is upheld by the MRT on reasoned grounds then the general directions contained in the letter dated 19.03.2014 cannot be made applicable to the subject lands.

29. In the present case it is seen that Petitioner / land owners have been directed by Talathi notice dated 21.06.1971 to pay assessment tax and the said tax receipts produced by the land owners since then to the revenue department are on record and they clearly establish that the lands were under cultivation and while determining the Appeal under Section 6 the SDO has taken cognizance of the same and returned affirmative findings on this ground.

30. In view of the above observations and findings, the impugned order passed by Respondent No.1 – Collector is not sustainable especially in view of the reasoned findings returned by the SDO under Section 6 of the MPF Act declaring the subject lands as “agricultural lands” which has been upheld by the MRT and in that view of the matter the impugned order dated 10.12.2025 passed by the Collector is not sustainable and is quashed and set aside. The Application dated 12.09.2025 stands allowed subject to caveat that the classification of the subject lands as Class – I holding be effected on all due compliances as applicable in accordance with law. Respondent No.1 - Collector is directed to mutate the Revenue Record in terms of

the directions contained in the order dated 05.06.2015 readwith the directions contained in the order dated 19.04.2023 within a period of four weeks without insisting on permission from the Central Government in view of the above order.

31. The aforesaid excersie shall be carried out by the Collector on the basis of server copy of this order placed before the Collector by Petitioner within a period of four (4) weeks from the date of submission of the said copy.

32. Petition is allowed and disposed of in the above terms.

[MILIND N. JADHAV, J.]

Amberkar

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