

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

WRIT PETITION NO. 4247 OF 2026

Roselind Pauly and Ors. ...Petitioners

Vs.

The State of Maharashtra through
Principle Secretary Revenue and Forest
Department and Ors. ...Respondents

with

WRIT PETITION NO. 4248 OF 2026

Vidya Vinayak Donde ...Petitioner

Vs.

The State of Maharashtra through
Principle Secretary Revenue and Forest
Department and Ors. ...Respondents

with

WRIT PETITION NO. 4249 OF 2026

Vishal Sudhakar Turkar through
Power of Attorney holder Nirmal
Devichand Solanki ...Petitioner

Vs.

The State of Maharashtra through
Principle Secretary Revenue and Forest
Department and Ors. ...Respondents

with

WRIT PETITION NO. 4251 OF 2026

Mukesh Popatlal Dedhia ...Petitioner

Vs.

The State of Maharashtra through

Principle Secretary Revenue and Forest
Department and Ors.

...Respondents

with

WRIT PETITION NO. 4254 OF 2026

Shantilal Dayaram Thakkar

...Petitioner

Vs.

The State of Maharashtra through
Principle Secretary Revenue and Forest
Department and Ors.

...Respondents

Mr Amogh Singh, Mr Nikhil Waje, Mr Prem Gada, Mr Vishesh Srivastav, Mr Adnan Sarang, Mr Anubhav Singh, for the Petitioners in WP/4247/2026, WP/4249/2026, WP/4251/2026 and WP/4254/2026.

Mr Shreeyash Uday Lalit i/b Mr Prem Gada, for the Petitioner in WP/4248/2026.

Mr Karan S Thorat, B Panel, for the Respondent / State in WP/4247/2026.

Mr Asif I Patel, Addl GP a/w Mr M M Pable, AGP, for the Respondent / State in WP/4248/2026 and WP/4251/2026.

Mr Asif I Patel, Addl GP a/w Mr V R Raje, AGP, for the Respondent / State in WP/4249/2026.

Mr Asif I Patel, Addl GP a/w Ms S A Prabhune, AGP, for the Respondent / State in WP/4254/2026.

CORAM: BHARATI DANGRE &

MANJUSHA DESHPANDE, JJ.

DATED : 28th APRIL, 2026

JUDGMENT (Per Bharati Dangre, J.) :-

1. The five writ petitions before us involved distinct Gat numbers, all of which are covered by the Mutation Entry No.616, when the State Government effected entry of “Maharashtra Government Reserved Forest” and the petitioners have raised challenge to the said entry by alleging that the mutation entry effected is without following the procedure prescribed under the Indian Forests Act, 1927, and therefore, the entry is liable to be quashed and set aside.

2. The details of the five petitions along with the involved Gat numbers are tabulated as under:-

Sr. No.	Writ Petition No.	Details of Land	Impugned Mutation Entry
1	4247 of 2026	Land bearing Gat No.18 Hissa No.2P admeasuring 4000 Square Meters, of Village Yeoor, Taluka and District Thane.	616
2	4248 of 2026	Land bearing Gat No.18 Hissa No.2B admeasuring 10395 Square Meters, of Village Yeoor, Taluka and District Thane.	616
3	4249 of 2026	Land bearing Gat No.18 Hissa No.2E admeasuring 6396 Square Meters, of Village Yeoor, Taluka and District Thane.	616
4	4251 of	Land bearing Gat No.18 Hissa	616

	2026	No.2A admeasuring 10396 Square Meters, of Village Yeoor, Taluka and District Thane.	
5	4254 of 2026	Land bearing Gat No.18 Hissa No.2M admeasuring 10400 Square Meters, of Village Yeoor, Taluka and District Thane.	616

3. The learned Counsel Mr Singh representing the petitioners has placed reliance upon the decision delivered by the Division Bench of this Court in ***Dr. Arjun Sitaram Nitnwar Vs. State of Maharashtra*** decided on 3 February 2015.¹

According to him, the said petition was filed by the petitioners, with the involvement of Gat Nos.7/1, 7/2, 7/3 and 7/6 at Village Yeoor, Taluka and District Thane, and a grievance was made when the State Government by Mutation Entry No. 616 recorded the name of the Government in the Kabjedar Column, the entry being effected on 23 May 2006.

By invoking the principles of law flowing from the said judgment and by inviting our attention to its operative portion, where the Court declared that land bearing Gat Nos.7/1, 7/2, 7/3 and 7/6 are not 'Private Forests' within the meaning of Sub-clause (iii) of Clause (f) of Section 2 of the Maharashtra Private Forest (Acquisition Act), 1975 and therefore, said lands never vested in the State Government under the said Act, he would submit that the Mutation Entry No.616 was quashed only

¹2015(6) Mh.L.J. 634.

qua the Gat numbers involved in the petition.

4. It is the submission of Mr Singh that for the very reason recorded in the said judgment, the impugned mutation entry taken in respect of the Gat numbers in which the five petitioners are interested, must also receive the same treatment as no procedure under the Indian Forests Act i.e. issuance of notice under Section 35(3) the owners of the land and final notification under Section 35(1) of the Act of 1927 has been followed and the petitioners are also covered by the said decision, though at the relevant time it was only restricted to the Petitioner Dr Arjun Sitaram Nitnwar.

5. On the previous date of hearing, he has also placed reliance upon another decision dated 8 August 2024 in Writ Petition No. 7430 of 2023 in respect of the Mutation Entry No.615 when the Division Bench by relying upon the decision in the case of *Dr. Arjun Sitaram Nitnwar*, declared the Mutation Entry No.615 as illegal and directed removal of the recording of the entry of private forest qua the lands of the petitioners and the mutation entry was cancelled.

6. On the previous date of hearing, by appreciating the arguments of Mr Singh, we had directed the Government Advocate to obtain appropriate instructions.

The learned Government Advocate, on instructions,

make a categorical statement that in all the five cases involving the aforesaid Gat numbers, in respect of which the name of the State Government was recorded in the wake of Mutation Entry No.616, the notices under Section 35(3) of the Indian Forest Act, 1927 was issued to the respective owners but on the basis of the record, makes a statement that there is no proof of its receipt by the owners. Apart from this, he also makes a categorical statement that there is no notification issued under Section 35(1) of the Indian Forest Act, 1927.

7. In the light of this statement, in our view, the petitioners are entitled for the similar relief which was granted by this Court in *Dr. Arjun Sitaram Nitnwar* in the year 2015 itself.

The State Government in the said writ petition, had adopted a stand that the notice under Section 35(3) was issued and therefore on 30 August 1975 i.e. the appointed date, the lands covered by the notice dated 13 April 1957 stood acquired and vested in the State Government. The State Government attempted to justify the Mutation Entry No.616 and prayed for petition to be dismissed.

8. The Division Bench made reference to the decision of the Apex Court in case of *Godrej & Boyce Manufacturing Co. Ltd. Vs. State of Maharashtra*² and also made exhaustive reference to the relevant provisions of the Act of 1975, covering the Scheme

²(2014) 3 SCC 430

contemplated under Section 3, 5 and 6 of the Act.

The decision proceed to examine the Scheme under Section 35 of the Indian Forest Act, 1927 in regards to the protection of the forests for special purposes, contemplated a notification to be issued in the final Gazette regulating or prohibiting in any forest or waste land the activity stipulated therein. The Court also took the cognizance of Sub-section (3) of Section 35, which contemplated that no notification shall be made under Sub-Section(1), until after the issuance of the notice to the owners of the said land calling on him to show cause, within a reasonable period to be specified, why such notification should not be made and until his objections, if any, and any evidence he may in support of the same, have been heard by the Officer duly appointed in that regard.

In addition, reference is specifically made to Section 36A of the Act incorporated by Bombay Act No.24 of 1995, which prescribed the manner of service of the notice and order under Section 36.

9. In light of the statutory Scheme, the Division Bench appreciated the stand adopted by the respondents and noted that even assuming that the notice under Section 35(3) of the Act of 1927 in respect of the lands of the petitioners was issued, there was no case made out in the reply that the notices were served to the owners. In this backdrop, at this stage, it is necessary to reproduce the relevant observations in this regard, which reads thus-

19. *“It is held by the Apex Court in its decision in the case of Godrej Boyce that unless the notice under sub-section (3) of section 35 of the said Act of 1927 is served to the owners, the lands do not become private forests. under sub-clause (iii) of Clause (f) of section 2 of the said Act of 1975. Therefore, unless it is proved that the notice under sub-section (3) of section 35 of the said Act of 1975 is served, the land subject-matter of notice will not become private forest under sub-clause (iii) of Clause (f) of section 2 of the said Act of 1975 and, therefore, there will not be any vesting of the said lands in the State Government in accordance with sub-section (1) of section 3 of the said Act of 1975. From the affidavit of Shri Sudhir Raghunath Padwale and from the Mutation Entry No. 616, it is apparent that the name of the Government of Maharashtra was mutated on the ground that the said lands were private forests vesting in the State within the meaning of sub-clause (iii) of Clause (f) of section 2 of the said Act of 1975. Assuming that the notices under sub-section (3) of section 35 of the said Act of 1927 referred to in the reply are in respect of the said lands, even in the affidavit, no case is made out that the notices were served to the owners. As held in the case of Godrej Boyce, the notices of 13th April, 1957 and 14th August, 1975 have become dead letters as a notification under sub-section (1) of section 35 of the said Act of 1927 has not been issued on the basis of the said notices.”*

10. In the wake of aforesaid observations, the following declaration is issued :

(a) *We declare that the lands bearing Gat Nos.7/1, 7/2, 7/3 and 7/6 of Village Yeur, Taluka nd District Thane are not “Private Forests” within the meaning of sub-clause (iii) of Clause (f) of Section 2 of the*

Maharashtra Private Forests (Acquisition) Act, 1975 and hence, sub-section (1) of Section 3 of the said Act of 1975. Accordingly, the Mutation Entry No.616 only in relation to the said lands stands cancelled. Accordingly, all entries in the Record of Rights in existence prior to the said Mutation Entry be restored within three months from today;

(b) We, however, make it clear that we have not made any adjudication on the question whether the provisions of the Indian Forests Act, 1927 and the provisions of the Forests (Conservation) Act, 1980 are otherwise applicable to the said lands. The said issue is expressly kept open.

(c) We also make it clear that we have made no final adjudication on the rights claimed by the Petitioner as the Lessee of the said lands;

(d) Subject to what is observed in the body of the Judgment, the Rule is made partly absolute on above terms;

(e) No order as to costs.

11. When we compared the facts placed before us through the present petitions, where the petitioners have also sought deletion of Mutation Entry No.616 but in respect of respective Gat numbers of the petitions, we find that the statement coming before us that there is no proof of service of notice issued under Sub-Section(3) of Section 35 and since the learned Government Advocate has conceded that there is no notification issued under Sub-section(1) of Section 35, in our view, the petitioners are entitled for the similar relief and we make the petitions absolute by the following order:-

Writ Petition No.4247 of 2026

(a) It is declared that the land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2P admeasuring 4000 Square Meters, of Village Yeoor, Taluka and District Thane, is not "private forest" within the meaning of Sub-clause (iii) of Clause (f) of Section 2 of Maharashtra Private Forest (Acquisition) Act, 1975 and the said land never vested in the State of Maharashtra by virtue of Sub-section (1) of Section 3 of the said Act of 1975. Accordingly, Mutation Entry No.616 in relation to the said land i.e. land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2P admeasuring 4000 Square Meters, of Village Yeoor, Taluka and District Thane is cancelled, and all entries in the Record of Rights in existence prior to the said Mutation Entry No. 616 be restored.

(b) We direct the Respondents to restore the name of Petitioners in 7/12 extract of land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2P admeasuring 4000 Square Meters, of Village Yeoor, Taluka and District Thane.

Writ Petition No.4248 of 2026

(a) It is declared that the land bearing old Survey No.56 (Part), corresponding to land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2B admeasuring 10395 Square Meters, of Village Yeoor, Taluka and District Thane, is not "private forest" within the meaning of Sub-clause (iii) of Clause (f) of Section 2 of Maharashtra Private Forest (Acquisition) Act, 1975 and the said land never vested in the State of Maharashtra by virtue of Sub-

section (1) of Section 3 of the said Act of 1975. Accordingly, Mutation Entry No.616 in relation to the said land i.e. land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2B admeasuring 10395 Square Meters, of Village Yeoor, Taluka and District Thane is cancelled, and all entries in the Record of Rights in existence prior to the said Mutation Entry No. 616 be restored.

(b) We direct the Respondents to restore the name of Petitioner in 7/12 extract of land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2B admeasuring 10395 Square Meters, of Village Yeoor, Taluka and District Thane.

Writ Petition No.4249 of 2026

a) It is declared that the land bearing old Survey No.56 (Part), corresponding to Gat No.18 Hissa No.2E, 64 gunthas, admeasuring approximately 6396 Square Meters situated at Village Yeoor, Taluka and District Thane, is not "private forest" within the meaning of Sub-clause (iii) of Clause (f) of Section 2 of Maharashtra Private Forest (Acquisition) Act, 1975 and the said land never vested in the State of Maharashtra by virtue of Sub-section (1) of Section 3 of the said Act of 1975. Accordingly, Mutation Entry No.616 in relation to the said land i.e. land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2E, 64 gunthas admeasuring approximately 6396 Square Meters, of Village Yeoor, Taluka and District Thane is cancelled, and all entries in the Record of Rights in existence prior to the said Mutation Entry No. 616 be restored.

(b) We direct the Respondents to restore the name of Petitioner in 7/12 extract of land bearing old Survey

No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2E, 64 gunthas admeasuring approximately 6396 Square Meters, of Village Yeoor, Taluka and District Thane.

Writ Petition No.4251 of 2026

(a) It is declared that the land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2A admeasuring 01-03-09 H-R-P, approximately 10396 Square Meters, of Village Yeoor, Taluka and District Thane, is not "private forest" within the meaning of Sub-clause (iii) of Clause (f) of Section 2 of Maharashtra Private Forest (Acquisition) Act, 1975 and the said land never vested in the State of Maharashtra by virtue of Sub-section (1) of Section 3 of the said Act of 1975. Accordingly, Mutation Entry No.616 in relation to the said land i.e. land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2A admeasuring 01-03-09 H-R-P, approximately 10396 Square Meters, of Village Yeoor, Taluka and District Thane is cancelled, and all entries in the Record of Rights in existence prior to the said Mutation Entry No. 616 be restored.

(b) We direct the Respondents to restore the name of Petitioner in 7/12 extract of land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2A admeasuring 01-03-09 H-R-P, approximately 10396 Square Meters, of Village Yeoor, Taluka and District Thane.

Writ Petition No.4254 of 2026

(a) It is declared that the land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2M admeasuring 01-04-00 H-R-P, approximately 10400 Square Meters, of Village Yeoor, Taluka and District Thane, is not "private forest" within the meaning of Sub-clause (iii) of Clause (f) of Section 2 of

Maharashtra Private Forest (Acquisition) Act, 1975 and the said land never vested in the State of Maharashtra by virtue of Sub-section (1) of Section 3 of the said Act of 1975. Accordingly, Mutation Entry No.616 in relation to the said land i.e. land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2M admeasuring 01-04-00 H-R-P, approximately 10400 Square Meters, of Village Yeoor, Taluka and District Thane is cancelled, and all entries in the Record of Rights in existence prior to the said Mutation Entry No. 616 be restored.

(b) We direct the Respondents to restore the name of Petitioners in 7/12 extract of land bearing old Survey No. 56 Part, Corresponding to Gat No. 18 Hissa No. 2M admeasuring 01-04-00 H-R-P, approximately 10400 Square Meters, of Village Yeoor, Taluka and District Thane.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)