

**THE RECOMMENDATIONS
OF THE
CENTRAL EMPOWERED COMMITTEE**

IN

I.A. No. 2352-53/2008

IN

**Writ Petition (Civil) No. 202 of 1995
(Under Article 32 of the Constitution of India)**

In the matter of:

T. N. Godavarman ThirumalpadPetitioner

Versus

Union of India & OthersRespondent

And in the matter of:

**State of MaharashtraApplicant
Through its Additional Secretary(Forest),
Revenue & Forest Department,
Mantralaya, Mumbai-400032,
Maharashtra**

**Dates of meeting : 11/11/08, 25/11/08, 15/12/08, 16/12/08,
17/12/08, 23/3/09, 25/3/09 and 21/5/09**

Coram:

**Shri P.V. Jayakrishnan, Chairman
Shri M.K. Muthoo, Member
Shri S.K. Patnaik, Member
Shri M.K. Jiwrajka, Member
Shri Mahender Vyas
Shri Sanjeev Kumar Chadha,
Member Secretary**

Amicus Curiae :

**Sh. A. D. N. Rao, Advocate
Sh. Siddhartha Chowdhary,
Advocate**

**For the State Of
Maharashtra :**

Sh. J.P.Dange, Addl. Chief
Secretary (Forest)
Sh. Rajendra Mangrulkar, Joint
Secretary (Forest)
Sh. Jawala Prasad, PCCF, Nagpur
Sh. Shallendra Bahadur, CCF
Sh. Shankar Rao, Dy. Collector,
Thane
Sh. Yadav Amol A., Collector office

**For the
Godrej & Boyce :**

Ms. Gauri Gandhi, Sr. GM, HOD
Legal
Mr. Jal Munim, Advocate, Solicitor
Ms. Bano Kapadia, Advocate
Sh. Ajay Bhargava, Advocate
Ms. Diwakar Maheshwari, Adv.
Ms. Madhavi Divan, Advocate
Ms. Vinita Bhargava, Advocate
Ms. Nupur Mukherjee, Advocate

Oberoi Construction :

Sh. Vikas Oberoi
Sh. P.K. Samdani, Sr. Advocate
Sh. S.C. Mahimtura, Advocate
Sh. Ashok Gupta, Advocate
Sh. Mahesh Aggarwal, Advocate
Sh. Gaurav Goel, Advocate
Sh. Shailesh Mahimtura, Advocate

Hillside Residents Welfare Association :

Sh. Prakash Padikkal, President
Sh. Girija Balakrishnan, Advocate
Sh. Anurag Sharma, Advocate
Sh. Ramesh Aggarwal
Sh. B.S. Iyenagar, Advocate
Sh. P.K. Kochar
Sh. P.M. Samant

Nanabhai Jijabhai Pvt. Ltd. :

Sh. Ashok Gupta, Advocate
Sh. Jatin Zaveri, Advocate
Sh. S.C. Mahimtura, Advocate

Runwal Construction :

Sh. Sandeep Runwal
 Sh. S.C. Mahimtura, Advocate
 Sh. Ashok Gupta, Advocate
 Sh. Jatin Zaveri, Advocate

Nanabhai Jijabhai Pvt. Ltd. :

Sh. Ashok Gupta, Advocate
 Sh. Jatin Zaveri, Advocate
 Sh. S.C. Mahimtura, Advocate

Athithi Builders :

Sh. Athiti Patel, Partner
 Sh. S.C. Mahimtura, Advocate
 Sh. Ashok Gupta, Advocate
 Sh. Jatin Zaveri, Advocate

Atul Paints :

Sh. P.K. Samdani, Sr. Advocate
 Sh. Gaurav Goel, Advocate
 Sh. Mahesh Agarwal, Advocate
 Sh. Rashmi Lehri

Schrader Duncan:

Sh. P.K. Samdani, Sr. Advocate
 Sh. Mahesh Agarwal, Advocate
 Sh. Gaurav Goel, Advocate
 Sh. S. S. Kalambi, Advocate
 Sh. A.P. Singh, Law Officer

Bombay Environmental Action Group:

Sh. Debi Goenka

Vasant Garden :

Sh. Gaurav Goel, Advocate
 Sh. Mahesh Agarwal, Advocate

Vasant Leela Complex :

Sh. P.K.Kochar
 Sh. P.M. Samant

Suraj Air Flow Engineers ;

Sh. Sandeep Sekhani

Santacruz Contractors & Builders Pvt. Ltd. :

**Sh. Mahesh Aggarwal, Advocate
Sh. Gaurav Goel, Advocate**

Crystal Garden Estate Co-Operative Society Ltd. :

Sh. U.S.Palsikar

Ashapura Habitats Pvt. Ltd:

Sh. Jatin Zaveri, Advocate

Western Rolling Mills :

**Sh. Gaurav Goel, Advocate
Sh. Mahesh Agarwal, Advocate**

Nirmal Developers :

**Sh. Ashok Gupta, Advocate
Sh. S.C. Mahimtura, Advocate
Sh. Jatin Zaveri, Advocate**

Bitcon Industries:

**Sh. Ashok Gupta, Advocate
Sh. S.C. Mahimtura, Advocate
Sh. Jatin Zaveri, Advocate**

Gadiraju Subramaniya Raju:

**Sh. Manish Kumar, Advocate
Sh. Nitin Bhatia, Advocate
Sh. S.G. Bhandari, Advocate**

Anandevan Society:

Sh. Prakash Mate, Secretary

Aristo Developers:

Sh. Hiren Patel

Sadanand Approtech Pvt. Ltd:

**Sh. Uday N. Khare, Managing
Director**

Nirmal Life Style :

**Sh. P.K. Samdani, Sr. Advocate
Sh. Gaurav Goel, Advocate
Sh. Mahesh Aggarwal, Advocate**

New Sree Swami Samartha Borivade :

Sh. Prantap Kalra, Advocate

Amalgamated Industries Corp. Association :

**Sh. J. R. Shukla
Sh. Divesh C. Shah
Sh. Kamlesh M. Chande**

Sai Plast :

Sh. S.M. Khakyari

Pee Bee Packaging Industries:

**Sh. Manoj R. Patel
Sh. Manish Kumar, Advocate
Sh. Nitin Bhatia, Advocate
Sh. G.S. Raju, Advocate**

Representing Shahpur Industries :

**Sh. Girija Balakrishnan, Advocate
Sh. Jatin Zaveri, Advocate
Sh. Jayesh Kotak
Sh. Sajid K.
Sh. Satish B. Bajaj
Sh. Manoj R. Pabi
Sh. Divesh C. Shah
Sh. Vijay Dani
Sh. Kamlesh Chande
Sh. C.L. Maheswari
Sh. S.M. Khakyari**

Others:

**Sh. Manoj Kotak, Muncipal Co-
ordinator
Sh. Kirit Somaiya, Ex. MP**

Sh. Shashi Shankar, PS to Kirit
Somaiya
Advocate Nirmala Samant
Prabhavakar, Ex Mayor, Mumbai
Sh. Dillip Barate, Corporator, Pune
Sh. Prabhakar Ganbote & others
Sh. Balasdeh Parage
Sh. A.P. Singh, law officer
Sh. Rahul C. Vetkar
Sh. Dattary Pagagade, Pune
Sh. Shrikut Tamke
Sh. Rohidas B. Bhatia, Land owner
Sh. Achimo A.
Sh. Arup Deb Barma, Advocate
Sh. Manoranjan Paikaray, Advocate
Sh. G.A. Hinale, Varli, Mumbai

I.As. No.2352-53 of 2008 have been filed by the State of Maharashtra regarding private forest in Maharashtra. In the I.A., the following prayers have been made:

- "1. The lands coming under the provisions of the Maharashtra Private Forests (Acquisition) Act, 1975 which were put to non forestry use prior to 25th October, 1980 by way of having been awarded Approval of Plans, Commencement Certificates, IODS or Non Agriculture Permissions by the Competent Authorities be treated deleted from the category of forests and the non forestry activity be allowed on such lands without charging CA, NPV or equivalent non forest land or any charges whatsoever.*

2. *The Collectors of all the districts be directed to pass appropriate orders under section 6 or 22A of the Maharashtra Private Forests (Acquisition) Act, 1975 either on an application or suo motu as provided for it under the Act, for all the pieces of lands coming under the provisions of the Act under their jurisdiction within 30 days.*

3. *For the lands exempted from the provisions of the Maharashtra Private Forests (Acquisition) Act, 1975, under section 6 of the Act, no condition need be stipulated while granting permission under the Forest (Conservation) Act, 1980, as these lands are not 'forests' at all.
The order of the Collector may only be approved after it is duly recommended by the office of the PCCF. The GOI be directed to approve of such cases within 2 months of their submission from the State.*

4. *For the lands restored under the Act on which residential complexes have come up/are coming up wherein Non Agriculture Permissions (N.A.) and buildings were fully constructed and completion certificate and occupation certificate were issued by the Competent Authorities after*

25th October, 1980 but before 18th May, 2006 when the "stop construction work" notices were issued, only afforestation charges be collected for afforesting equivalent forest land. Neither equivalent non forest land nor the Net Present Value be charged to them, as these areas are their own private lands.

Likewise, if on such restored lands, the farmer has dug a well or has constructed a house for himself which he inhabits round the year or is taking other activities ancillary to agriculture with due permissions during the above said period the cases be regularized.

The above said permissions be allowed to be granted at the state level as it is virtually impossible to have a proposal from those inhabiting every single building or from owners of each of these structures where in constructions were completed long before. The State may be directed to grant such permissions within 3 months of passing of orders of the Hon.Court.

5. For all other restored pieces of lands e.g. where plans were approved, commencement certificates granted, but buildings were not

completed and completion certificate or occupation certificate were not issued prior to 18th May, 2006, no equivalent non forest land or Net Present Value be charged to these people as these areas are owned by themselves, but afforestation charges be collected at 10 times the normal amount. If farmers are to take agriculture or ancillary activities on such lands for his legitimate means, normal afforestation charges be recovered. For lands which are vacant and in which commercial construction is proposed, the owners/developers would have to pay NPV and compensatory afforestation charges. Instructions be imparted to the Govt. of India to devise a suitable mechanism to process/decide such cases expeditiously, preferably within a stipulated period of 4 months.

6. In all the cases wherein afforestation charges are to be collected, wherever non forestry activity has been undertaken after 25th October, 1980, afforestation charges be collected for afforesting forest area twice in extent.
7. In all such areas the relief sought be granted once and for all so that thereafter they need not

have to approach any of the authorities for further disposal/non forest use of their pieces of land.

8. *The Private Forest Lands for which neither deletion orders can be issued under Section 6 of the Maharashtra Private Forests (Acquisition) Act, 1975 nor restoration orders can be passed under section 22A of the Act are deemed Reserved Forests and all proposals on these lands shall be dealt with as such.*

9. *Pass other appropriate order."*

2. In respect of the private forests in Maharashtra, the following SLPs filed by the concerned persons are pending before the Hon'ble Court:-

1. SLP (C) No. 10730 of 2008
2. SLP (C) No. 11055 of 2008
3. SLP (C) No. 11398 of 2008
4. SLP (C) No. 11401 of 2008
5. SLP (C) No. 11622 of 2008
6. SLP (C) No. 11640 of 2008
7. SLP (C) No. 10760 of 2008
8. SLP (C) No. 11057 of 2008
9. SLP (C) No. 11398 of 2008
10. SLP (C) No. 11509 of 2008
11. SLP (C) No. 11634 of 2008
12. SLP (C) No. 12408 of 2008
13. SLP (C) No. 15791/2008
14. SLP (C) No. 16470/2008
15. SLP (C) No. 21389/2008

53. Ashapura Habitats Pvt. Ltd.
54. Nisarga Upavan Wing'a' Co-Operative Housing Society
55. Sanghvi Hills Co-Operative Housing Society Ltd.
56. Swati Enterprises
57. Manas Anand
58. Neelvan Bunglows Co-Operative Housing Society
59. Ruhani Darshan Co-Operative Housing Society
60. Mulund Hill Top Operative Housing Society
61. Mount Breeze Co-Operative Housing Society
62. Atlanta Co-Operative Housing Society
63. K.K. Kamath
64. Sh. Vijay Dani
65. Crystal Garden Estate Co-Operative Society Ltd.
66. Vijay Nagari Co-Operative Housing Society Ltd.
67. Viceory Court Co-Operative Housing Society Ltd.
68. Marigold Co-Operative Housing Society Ltd.
69. Oilfield Engineer's Co-Operative Society Ltd.
70. Ansal Housing & Construction Ltd.
71. Vijay Nagri Shopping Premises Co-Operative Society Ltd.
72. Smt. Usha -I Puraka
73. Bpm Industries
74. Garden Court Co-Operative Housing Society
75. Sapphire Co-Operative Housing Society Ltd.
76. Voltas Ltd.
77. Vasant Leela (Phase II To Phase XIII) Co-Operative Housing Society Ltd.
78. Rajender Atmaram Patil
79. Ishwardas T. Jethwani
80. Shivkripa Ambiya
81. Shabbir Ambiya Kante
82. K.K. Pariani
83. Advocate Nirmala Samant Prabhavakar
84. Santacruz Contractors & Builders Pvt. Ltd.
85. Garden Estate Ruby Co-Operative Housing Society Ltd.
86. Windsor Co-Operative Housing Society Ltd.
87. Sreeram Packaging Industry
88. Anirudh Group, Thane
89. Vijay Kumar Thakur
90. Atgaon Industrialist's Association
91. Kirit Somaiya, Ex Member Of Parliament
92. Agarwal Estate Industries Association
93. Pangololi Welfare Society
94. Sh. R.S.Gupta

BACKGROUND:

5. The Maharashtra Private Forest (Acquisition) Act, 1975 hereinafter referred to as Private Forest Act, came into force on 30.8.1975 (appointed date). Section 3 of the Act provides that all the private forests in the State of Maharashtra stand acquired and vest in the State Govt. with effect from 30.8.1975, free from all encumbrances and that these are deemed to have become "reserved forest". As per Section 2 of the said Act, "private forest" means any forest which is not the property of Govt. and, inter alia, includes

- (a) any land declared to be "forest" under Section 34(A) of the Indian Forest Act;
- (b) any forest in respect of which any Notification issued under Section 35(1) of the Indian Forest Act, 1927 was in force;
- (c) any land in respect of which a notice has been issued under Section 35(3) of the Indian Forest Act, but excluding an area in extent up to 2 ha., as may be decided by the Collector; and
- (d) land in respect of which a notification has been issued under Section 38 of the Indian Forest Act.

6. Section 6 of the Private Forest Act empowers the District Collector to decide whether or not any forest is a forest or whether or not any private forest has vested in the State Government. It also provides that the decision of the Collector, subject to the decision of the Tribunal or the order of State Government in Appeal under Section 18 of the said Act shall be final.

7. The Private Forest Act has been amended by inserting Section 22 (A) with effect from 26.4.1978 with a view to restore the land acquired from small farmers who lost their source of livelihood. The Section 22 (A) provides for the restoration of the whole or a part of the land acquired under the Act to the original owner if due to the acquisition under the Act, his land holding has become less than 12 ha. Section 24 of the Act provides that the status of the land restored under Section 22(A) remains that of private forest. Therefore, for its non-forest use, leasing, sale/purchase, prior approval of the Govt. under Forest (Conservation) Act is mandatory.

A copy of the Private Forest Act is enclosed as ANNEXURE-R-1 to this Report.

8. Section 35(1) of the Indian Forest Act provides that the State Government may, by Notification in the Official Gazette, regulate or prohibit in any forest the breaking up or

clearing of land for cultivation, the pasturing of cattle, clearing of vegetation, felling of trees, quarrying of stone etc. Section 35(3) of the Indian Forest Act provides that Notification under sub-section (1) shall be made only after the issue of a notice to the owner of such forest or land calling upon him why such a Notification should not be made and until his objections have been considered by the State Government. Section 35(5) provides that the notice under sub-section (3) shall be served on the owner of the forest in the manner provided in the Code of Civil Procedure, 1908 for the service of summons and shall also be published in the manner prescribed by Rules. Under the provisions of the Private Forest Act, all areas in respect of which notice under Section 35(3) and notifications under Section 35(1) have been issued, stood acquired and vested with the State Govt. and are deemed to have become Reserved Forests.

9. In a number of cases notices under Section 35(3) of the Indian Forest Act, 1927 were issued between 1950 to 1965. In some cases notices were issued till August, 1975. After hearing the owners, the Government issued Notification under Section 35(1) of the Indian Forest Act, 1927. However in many cases after the issue of notices under Section 35(3), the Notifications under Section 35(1) were not issued.

10. As per the details provided by the State of Maharashtra, under the provisions of the Private Forest Act, an area of about 2.59 lakh ha has been acquired and deemed to have become Reserved Forest. Out of the above, so far, 87,006 ha has been restored to the original owners under Section 22(A) of the said Act and 8,137.88 ha has been released under Section 6 of the said Act. The details of the area falling in different categories are as under:

S. No.	Particulars		No. of Cases	Area in Hectare
1.	Total Area Acquired under the Private Forest Act		57,665	2,58,796.88
2.	Area restored to the original owner U/S 22 (A) of the Act	Before 25.10.1980	30,139	76,010.537
		After 25.10.1980		
		1) Government of India's prior approval taken	1,956	2,665.1
		2) Government of India's prior approval not taken	1,823	8,331.098
		Total	33,918	87,006.74
3	Land Exempted U/S 6	Before 25.10.1980	2,710	6,421.88
		After 25.10.1980	47	1,715.996
		Total	2,757	8,137.88
4.		Total Area U/s 6 and 22 (A)	36,675	95,144.611
5.	Pending for enquiry	Under Section 6	5	1,005.05
		Under Section 22(A)	16,667	77,174.863
		Total		78,179.913
6.	Area for which mutation entries in the land records done			2,53,233.54
7.	Finally Acquired Area		2,238	84,685.93
8.	Area in Appeal Cases (with MRT/GOVT/HIGH COURT)	Under Section 6	106	2,623.861
		Under Section 22(A)	62	4,034.895
		Total	168	6,658.756

11. Section 24(2) of the amended Private Forest Act provides that in respect of the land restored under Section 22 (A) of the Act, Section 34A, 35,36,36A,36B,36C and 37 of the Indian Forest Act shall be continued to be applicable i.e. such area continue to have the status of "Private Forest". Therefore, the areas restored to the original owners under Section 22 (A) of the Private Forest Act continue to be "forest" for the purpose of the Forest (Conservation) Act, 1980 and require prior approval of the Central Govt. for its non-forest use and also for its sale/purchase.

12. The physical possession of many areas which stand acquired under the Private Forest Act, were not taken by the Maharashtra Forest Department. In the land records, many of these areas were continued to be shown as privately owned "non-forest" areas. The management of such areas remained with the original owner. No demarcation of such areas was done. The sale/purchase of such areas and its non-forest use was permitted by the concerned authorities of the State of Maharashtra by treating such area as privately owned non-forest land. In a large number of cases, sale/purchase of land has taken place a number of times, buildings have been constructed, occupied and third party rights have been created.

13. In Public Interest Litigation No. 17 of 2002 (*Bombay Environmental Action Group and others Versus the State of Maharashtra and Others*), the Division Bench of Hon'ble Bombay High Court passed an Order dated 22.6.2005 (**ANNEXURE-R-2**) directing that the land records in respect of areas acquired under the Private Forest Act be updated by 31.5.2006. Pursuant to the above Order of the Hon'ble Bombay High Court, a time-bound programme for making entries of private forest lands in the land records has been undertaken by the State of Maharashtra and directions have been issued to stop all construction activities on such lands.

14. Against the mutation entries made in the Revenue records (as 'forest') and "stop work" orders issued by the concerned authorities of the State of Maharashtra, various builders and developers, cooperative housing societies, Residents Welfare Associations and others filed the following 18 Writ Petitions before the Hon'ble Bombay High Court:

Sl.No.	Writ Petition (Civil) No.	Filed by
1.	1957/2006	Oberai Constructions Pvt. Ltd.
2.	2196/2006	Godrej & Boyce Manufacturing Co. Ltd.
3.	2937/2006	Nanabhoy Jeejeebhoy Pvt.Ltd. and Bombay Real Estate Development Co.Pvt. Ltd.
4.	2093/2006	Western Rolling Mills Pvt. Ltd. and Lohitka Properties Pvt. Ltd.

5.	2111/2006	Vasant Gardens Cooperative Housing Society Pvt. Ltd
6.	2930/2006	Mihir Developers,
7.	2985/2006	Gadiraju Subramanyan Raju
8.	2752/2006	Arvee Iron & Steel Works Pvt. Ltd.,
9.	2060/2006	Atul Paints & Chemicals Co. and M/s. Ashray Realtors
10.	2315/2006	Usha Ishwarlal Parikh & Ors
11.	2971/2006	Bitcom India Infrastructure (earlier known as S.N. Shah & Co.)
12.	2418/2006	Schrader Dunkan Ltd.
13.	1578/2006	Runwel Construction
14.	1722/2006	Atithi Builders
15.	2032/2006	Nirmal Life Style Ltd.
16.	2033/2006	Nirmal Developers
17.	2034/2006	Nirmal Holding Ltd
18.	96/2006	Hillside Residents Welfare Association (Prakash Padikkal) and People's Power of Nagtion.

15. In some of the Writ Petitions, the Hon'ble High Court granted interim relief staying the notice for stop work order (**ANNEXURE-R-3**). Against the interim orders of the Hon'ble High Court, the State of Maharashtra as well as the Bombay Environmental Action Group filed SLPs before this Hon'ble Court. In some of the above-said writ petitions, the Hon'ble Bombay High Court stayed the mutation entries regarding Private Forest, however, no stay was granted against the

"stop work" (ANNEXURE-R-4). The concerned builders/developers filed the following SLPs against the above part of the order before this Hon'ble Court:-

S.L.P.(C) No.	Filed by
17967/2006	Oberoi Construction Pvt.Ltd. & Anr.
18134/2006	Godrej & Boyce Manufacturing Co. Ltd., & Anr.
20542/2006	Nanabhoy Jeejeebhoy P.Ltd. &Anr.
CC 289/2007	Atul Paints & Chemicals Co. & Anr.
CC 4154/2007	Western Rolling Mills Pvt. Ltd. & Anr.
CC 4155/2007	Vasant Gardens Coop. Housing Society Ltd.
10900/2006	Feroz Shabbar Hussain

16. This Hon'ble Court by order dated 26.4.2007 in the SLPs filed before it, asked the Hon'ble Bombay High Court to dispose of the Writ Petitions pending before it within a period of four months and directed that in the meanwhile no third party interest shall be created by the petitioners. All the 18 Writ Petitions have subsequently been dismissed by the Hon'ble High Court by judgment dated 24.3.2008. Later this Hon'ble Court by order dated 28.4.2008 (ANNEXURE-R-5) dismissed the SLPs filed against the interim order of the Hon'ble Bombay High Court on the ground that these SLPs have now become infructuous. Thereafter various SLPs

have been filed before this Court against the judgment of the Hon'ble High Court of Bombay.

17. The SLP (Civil) No.10677/2008 filed by Godrej & Boyce Manufacturing Co. Ltd. together with the various other SLPs were heard by this Hon'ble Court on 5.5.2008 when the following order was passed (ANNEXURE-R-6):

"Issue Notice. Status quo as on today shall be maintained. In this disputed land, which alleged to be forest land, there shall not be any further construction by the petitioners. The petitioners shall not create any third party rights hereinafter. The respondent shall not take any further action till the next date of hearing i.e. 22.8.2008. List on 22.8.2008"

18. In SLP (C) No.1476/2006 (State of Maharashtra Vs Runwal Construction), an affidavit has been filed by the State of Maharashtra stating that the State Govt. will be seeking relaxation in the conditions while allowing the non-forest use on the restored Private Forest Land. The present I.A's have, thereafter been filed by the State of Maharashtra. As stated earlier, these IAs, together with the SLPs, were heard by the Hon'ble Court on 29.8.2008 (ANNEXURE-R-7) when the IAs filed by the State of Maharashtra were referred to the CEC.

MADE BY THE STATE OF MAHARASHTRA AND OTHERS

19. The main issues raised by the State of Maharashtra in these IA's. and the submissions made by the concerned persons before the CEC are that

- (i) most of the notices under Section 35(3) and/or Notification under Section 35(1) of Indian Forest Act, 1927 were issued by the State of Maharashtra almost 50 years back. Thereafter, no follow-up action was taken. The management of the area was never taken over by the State Government. The area continued to remain as non-forest land under private ownership and has been permitted to be used and developed. The land has been purchased by various persons after taking due permission from the concerned authorities and buildings thereon have been constructed. At no stage during the last 40-50 years, either the Forest Deptt. or the Revenue Deptt. of the State of Maharashtra had raised any objection or taken a view that these areas are forest areas. Now after a gap of 40-50 years these areas have now been recorded as forest and now building construction, sale and purchase have been stopped;

- (ii) In a very large number of cases, after the construction of the buildings, the dwelling units have been sold/re-sold and third party interests have been created. The buildings were constructed after obtaining all the requisite permissions. The sale / purchase have also taken place after obtaining the requisite approvals. It is unjustified and not in public interest to now take a view that all the buildings should be demolished and the area should be treated as forest;
- (iii) that the building construction activities were started after obtaining permission from the concerned authorities by way of Intimation of Disapproval (IOD), Commencement Certificate, etc. In many cases, Occupancy Certificates have been issued and the people are staying for the last 30-40 years. Lakhs of residents of these dwelling units will be adversely affected;
- (iv) that these areas were never treated as acquired under the Private Forest Act and as 'reserve forest', and therefore the original owners were not provided the opportunity either to seek

exemption under Section 6 or to seek restoration under Section 22 (A) of the Private Forest Act;

- (v) that most of the buildings, which are now recorded as forest, are surrounded by a large number of other buildings and thereby these areas can not be used as forest. These areas do not have any tree cover;
- (vi) that by Circular dated 3.2.1977 issued by the Forest Department, Thane Circle, wherein most of the private areas are located, directions were given to go slow on implementing the Act;
- (vii) that in many cases after issue of notice under Section 35(3) of Indian Forest Act, 1927 for next 20 years or so (till the Private Forest Act was enacted), no further steps or actions had been taken. No hearings were held, no enquiry was made and no notification under Section 35(1) of the Indian Forest Act was issued. In some cases even the notice issued under Section 35(3) were undated, unsigned and did not bear the requisite seal. Even in the Gazette Notification, no date of issuance is mentioned. None, including the Govt. officials were aware of the existence of Section 35(3) notice or 35 (1) notification.

- (viii) that many of the lands are located within the urban conglomerates and have been legally developed as industrial complexes and are incapable of meeting the objectives set out in the Private Forest Act;
- (ix) that in respect of the areas restored under Section 22(A), since the area continues to be private forest and attracts provisions of Forest (Conservation) Act, the farmers are facing legal hurdles in use of land even for agriculture. Digging of well in the farms, construction of dwelling units, construction of water tank, etc. is not permissible. They are not entitled to sell their lands to others; and
- (x) that in a large number of cases enquiries under Section 6 and Section 22(A) are still pending.

SUBMISSIONS MADE BY THE BOMBAY ENVIRONMENTAL ACTION GROUP

20. The main submissions by the Bombay Environmental Action Group who was the petitioner in public interest in Litigation No. 17 of 2002 before the Hon'ble Bombay High Court, are summarized as under:

- i) that the Private Forest Act is a Special Act with the specific intention of protecting the forest in

Maharashtra by getting under Government control. Under the provisions of this Act about 3 lakh hectares of forest have become reserve forest on 30.8.1975 and have become the property of the State Government. The paper possession of these lands was also taken in 1975 by the Forest Department. It was never disputed that these lands were not reserved forest – the only issue was completion of the administrative/clerical work of updating the land records;

- ii) that in PIL 17/2002 filed before the Hon'ble Bombay High Court by Bombay Environmental Action Group, the Hon'ble High Court directed that the updating of land records shall be completed by 31.05.2006;
- iii) that the State of Maharashtra stands committed to increase the forest cover of Maharashtra. This has been reiterated in the Maharashtra Forest Policy of 2008;
- iv) that Section 6 and 22 A of the Private Forest Act cannot now be used to restore these lands. Action under these Sections has become time barred. The proposal of the State of

Maharashtra, as given in these IAs, will result in loss of forest cover across the entire State. The grounds set out in these IAs are untenable. It amounts to re-writing the statute and which no Court can and should do;

- v) that the main thrust of the proposal seems to be to allow people who have violated the law to get away with it with minimum impact while those who have not violated the law will not be able to reap the financial benefits that the law breakers are proposed to be given;
- vi) that most of the private forest acquired in Bombay and Thane are contiguous to the Sanjay Gandhi National Park and are actually required to be retained as forest;
- vii) that it is necessary that a solution is found whereby (a) forest areas are restored; (b) the lower middle class flat buyers who have been living in 30 years old buildings be compensated by the Government of Maharashtra by offering the free housing of equivalent area on non forest land in the vicinity of their existing buildings and (c) that persons who have illegally sold forest land be punished. Profits from such

transactions must be used for restoring the forest land to their original condition. 150 acres of forest land on the western site of the National Park, which was cleared of permanent structures constructed by the encroachers pursuant to the orders of the Bombay High Court have reverted back to leopard habitat;

- (viii) while the construction activity on forest land in Mumbai has been stopped, the same action has not so far been taken in rest of Maharashtra; and
- ix) that the State Government has still not completed the correction of land records. There is no proposal to take action against the concerned officers of the Revenue and Forest Departments for their action of omission and commission and collusion.

OBSERVATIONS AND RECOMMENDATIONS

21. From the above it may be seen that the Maharashtra Private Forests (Acquisition) Act, 1975, herein after referred to as Private Forest Act, provides that all areas in respect of which Notices/Notifications have earlier been issued under Section 35(1) or Section 35(3) of Indian Forest Act, 1927 stand vested with the State of Maharashtra free from all

encumbrances with effect from 30.8.1975 and that such areas are deemed to have become Reserved Forest. The said Act was amended during 1978 by inserting Section 22(A) which provide that if due to acquisition, the total land holding of the original owner becomes less than 12 ha. the whole or part of the acquired land is to be restored back to him. Section 6 of the said Act empowers the Collector to decide whether or not any forest is a private forest and whether or not it has vested in the State Govt. The status of land restored under Section 22A remains that of the "private forest" and, therefore, its non-forest use as well as sale / purchase requires prior approval of the Central Government. After enactment of the FC Act, prior approval under the FC Act is also necessary for restoration/release of area under Section 22A and/or Section 6 of the Private Forest Act.

22. Though the Private Forest Act was enacted with laudable objectives its implementation has been very tardy and callous. Under the provisions of the Private Forest Act, an area of 2.59 lakh ha. in 57,665 cases were acquired. Out of the above so far only 2,238 cases covering 84,686 ha. area have finally been decided and the land has finally vested with Government. 87,000 ha area in 3,398 cases have been restored under Section 22 (A) and 8,138 ha. area in 2,757 cases have been released under Section 6 of the Act. Enquiries under Section 22(A) and Section 6 are still

pending with regard to about 78,000 ha. area in of 16,672 cases. For about 12,712 ha. area restored/released after 25.10.1980, except for about 2,665 ha. area, approvals under the FC Act for the remaining area are yet to be taken.

23. In a very large number of cases physical possession of the area vested with the Government was either not taken by the Forest Deptt. or remained on paper only. In the land records maintained by the Land Revenue Department and / or the Forest Department, many of the areas were not mutated and recorded as forest and continued to be shown as privately owned non-forest area. In respect of the restored areas whose status continues to be 'private forest', no effective steps were taken to ensure that non-forest use of these areas does not take place. No effective steps were taken for updating of land records, taking over physical possession of the land and afforestation or management of the land as Govt. property. No boundary pillars were erected. After the Act was amended in 1978, most of the acquired area became eligible for restoration to the original owners. The sale/purchase of land, approval of layout plans, exemption under the Urban Land Ceiling Act, approval of building plans, Commencement Certificates, Occupation Certificates etc. were allowed / approved by the concerned authorities and third party interests were allowed to be created.

24. In many cases, after the issue of notices under Section 35(3) of the Indian Forest Act, notifications under Section 35(1) were not issued and no follow-up action was taken. For the last 40-50 years and till the Hon'ble Bombay High Court's order dated 26.5.2005, the concerned authorities of the State Government including the Forest Department, were even not aware that in a large number of cases the areas concerned are actually 'private forest' and since 1975 stand vested as "reserved forest" in the Govt. A substantial part of the area acquired under the Private Forest Act fall in Districts Mumbai, Thane and Raigarh where because of urbanization, the land prices have increased very substantially.

25. It is thus clear that after the issue of notices under Section 35(3) or Notification under 35(1) of the Indian Forest Act, no follow-up action was taken by the State Govt. Even after the Private Forest Act came into force, neither physical possession of the land was taken nor the areas were recorded as 'forest'. A substantial part of such area falls in urban conglomerations and have been used for various non-forest purpose including construction of buildings for which permissions have been granted by the concerned State Government authorities. Sale/purchase and resale have taken place and third party interests have been generated.

People are residing for last 30-40 years in

buildings constructed with the then valid approvals. It was only after the order dated 26.5.2005 of the Hon'ble Bombay High Court, that these areas are now being treated as falling in category of "forest". Many of such areas are surrounded all around by other buildings and within metropolitan areas and are no longer suitable for afforestation or to be managed as 'forest'.

26. In the above complex background, at this belated stage, it is neither feasible nor in public interest to demolish the existing buildings/structures, re-locate the existing occupants/owners and physically convert such area into forest. The CEC in these circumstances considers that the balance of convenience lies in granting permission under the Forest (Conservation) Act for de-reservation and non-forest use of such area on a graded scale of payment depending upon the category/sub-category in which such land falls.

RECOMMENDATIONS

27. After considering the details provided by the State of Maharashtra and the written/oral submissions made by the parties before the CEC, the area acquired under the Private Forest have for the purpose of this Report been divided into

various categories/sub-categories as given below:

Category I

28. These include the area acquired under the Private Forest Act and which fulfill the following conditions, namely,

- (a) in the Government records maintained by the Revenue Department as well as the Forest Department, the area (till the Hon'ble Bombay High Court's Order dated 22.6.2005) was never recorded as forest but as privately owned non-forest land;
- (b) the physical possession of the area was not taken over by the Forest Department;
- (c) the area was not used for afforestation, soil conservation or any other related activities by the Forest Department;
- (d) the area otherwise did not belong to Government;
- (e) the area does not fall within any National Park or Wildlife Sanctuary; and
- (f) the sale / purchase and construction was/is otherwise legally valid.

29. Depending upon the present/past land uses, areas falling in Category I are further classified into the following sub categories:

Category I (A) :

30. Category I areas which also fulfill the following conditions:

- (i) the construction has been carried out after obtaining the requisite permissions from the concerned authorities such as Intimation of Disapproval (IOD), Commencement Certificate, Approval of layout plan, etc.,
- (ii) the area is being used for residential purposes; and
- (iii) the Completion/Occupancy Certificate has been issued by the competent authority before Hon'ble Bombay High Court's Order dated 22.6.2005 in Public Interest Litigation No. 17 of 2002(Bombay Environmental Action Group vs State of Maharashtra & Others).

31. In respect of the cases falling in the sub-category I (A), it is recommended that this Hon'ble Court may consider permitting continued non-forestry use, dereservation and private ownership of the land acquired under the Private

Forest on payment of an amount equal to the NPV payable for the adjoining forest area. For this purpose, the State of Maharashtra may be permitted to file consolidated proposal for seeking ex-post facto approval under the Forest (Conservation) Act and which should be decided in a time-bound manner by the Central Govt. subject to the payment of the above said amount and without any other condition. The above permission may be granted in relaxation of this Hon'ble Court dated 13.11.2002 in Writ Petition (Civil) No. 337 of 1995 which prohibits de-reservation without the leave of this Hon'ble Court.

32. The CEC is of the view that the above will in no way adversely impact the conservation, protection and development of forest. At the same time it will enable lakhs of persons, occupying the dwelling units constructed on such areas to legally enjoy their rights.

33. There are some cases, wherein buildings have been under occupation for more than a decade in District Thane but formal Completion / Occupation Certificates have not been issued. In such cases independently verifiable documents such as Electricity Bill, Telephone Bill, Municipal charges etc., instead of Occupancy/Complacency Certificate

may be relied upon and cases dealt with accordingly.

Sub-Category I (B):

34. These are cases wherein all conditions of Sub Category I(A) are fulfilled except that the Occupancy/Completion Certificates were not issued prior to 22.6.2005, However, Intimation of Disapprovals (IOD), were issued prior to 22.6.2005. Such cases may be allowed to be regularized in the same manner as falling in Category I(A) except that the payment should be equal to five times the NPV instead of one time of the NPV.

Sub Category I(C) :

35. These are cases fulfilling all the stipulations of Category I and wherein the area was used in the past for the construction of factories and / or other commercial purposes after obtaining the requisite permissions and approvals for the layout plans, building plans and are now being redeveloped for residential and other purposes. Such cases may be considered for regularization in the same manner except that the payment should be equal to ten times the NPV instead of one time of the NPV provided that at least the IOD for the new construction has been issued prior to

22.6.2005. The other cases will fall in Sub-Category I (D).

Sub Category I (D) :

36. These are cases fulfilling all the stipulations of Category I and wherein the building plans are yet to be approved and no construction has so far taken place. Such cases may be considered for regularization in the same manner except that the one time payment should be equal to 20 times the NPV instead of one time of the NPV.

37. Out of the cases for which the details have been filed before the CEC, 133 acres and Guntha land of M/s Godrej and Boyce Manufacturing Company Ltd. in old Survey No. 117, 118 and 120 in Village Vikhroli, Taluka Kurla, Mumbai is the only case, which falls in more than one sub category classified above. For this land notifications under Section 35 (3) and 35(1) of the Indian Forest Act were published in the Gazette on 6.9.1956 and therefore these areas stand acquired and vest with the Government of Maharashtra under Section 3 of the Private Forest Act. These areas, (till the Hon'ble Bombay High Court order dated 22.6.2005) continued to be recorded, treated and used as privately owned non forest land. In the first Development Plan for Mumbai sanctioned on 8.3.1966 the above said area is shown to be in the residential zone. In the revised development plan for Mumbai from 1981-2001, 63 acres

and 23 Guntha of land falling in old Survey No. 120 is shown to be in "No Development Zone". The rest of the area is shown to be in the residential zone. For use of these areas, exemptions under the Urban Ceiling Act have been accorded and a number of buildings have been constructed and occupied thereon after the approval of the layout plans, building plans, IOD, Commencement Certificate, Completion Certificates, etc. Based on the land use, the said land falls in the following sub-categories:

Particulars	Category
(i) 64 acres and 0.4 guntha, wherein 45 residential buildings, one club house, five electric substations, private colonies roads, internal layout roads etc. have been constructed and completion certificates issued before 22 nd June, 2005.	Category I (A)
(ii) 6 acres and 7.6 guntha, wherein construction of six residential buildings and two buildings for Management Institute, to be managed by the Confederation of Indian Industries (CII) was commenced/completed after obtaining requisite permissions but completion/occupation certificates have not been issued as on 22.6.2005.	Sub Category I(B)
(iii) 10 acres of land falling in no development zone for which development plan has been approved prior to 22 nd June, 2005 and wherein no construction has so far taken place.	Sub Category I(D)
(iv) 53 acres and 23 guntha falling in 'no development zone' in old Survey No. 120, where in no construction has been done/proposed to be done. This area is proposed to be afforested and retained as forest under the ownership of M/s Godrej and Boyce	Does not fall in any of the Sub-category

38. A decision in respect of the land falling in sub-categories I (A), I(B) and I(D) may be taken after verification by the Committee as recommended at para 45 of the Report and as per the applicable conditions/payment. The continued ownership of 53 acres and 23 guntha area in favour of M/s Godrej & Boyce, which is otherwise not proposed to be used for any non forestry purposes, will also require approval under the FC Act. This may be considered on payment of an amount equal to one time normal NPV and subject to the conditions that (i) this area will not be used for any non forestry use and (ii) that no proposal for its non-forestry use will at any time in future be considered under the FC Act.

39. At one stage, the CEC was considering recommending regularization of the above area, together with the other adjoining area which falls in the Category of deemed forest, on M/s Godrej & Boyce agreeing to transfer about 1,750 acres of its land, having very dense mangroves, to a Public Trust to be set up under the orders of the Hon'ble Supreme Court. This land, to be perpetually maintained as 'forest' would have served as green lungs for Bombay and would have ensured that at no point in future, any non-forest use of about 1,750 acres of land takes place even after obtaining approval under the FC Act. This would also have ensured, unlike many tracts of recorded forest area, that the 1,750

acres of land does not remain as forest only on paper. M/s Godrej & Boyce had also agreed in principle to the above line of approach so much so that a second site visit was done by the CEC for this purpose. However, no unanimity as to the modalities for the implementation of the above could be reached and therefore the above proposal is not being pursued any further.

Category II :

40. These are areas which were not 'private forest' on the appointed date and therefore do not vest in the State Government but have wrongly been recorded as 'forest' in the land records. These include (i) lands owned by the Central/State Governments such as land belonging to the Bhabha Atomic Research Centre (BARC) (ii) land acquired by the competent authority of the State Government and which were subsequently allotted/sold to private parties for residential and other purposes. An example in this regard is the 52.30 acres of land in Survey in 56, village Poiser, Tehsil Borivilli, Mumbai pertaining to Samta Nagar Cooperative Housing Societies Ltd.

41. In respect of such areas, the State of Maharashtra may be authorized to rectify the land records after conducting appropriate enquiry under Section 6 of the Private Forest Act in a time bound manner subject to the condition that the

amount(s) already deposited by such persons towards the NPV, Compensatory Afforestation etc will not be refunded to them but will be transferred to the designated Account wherein the amount for other cases falling in Category I (A) to I (D) are to be deposited.

Category III :

42. These consist of areas which stand acquired and vested with the State Government and are (i) areas recorded as 'forest' in land records maintained either by the Revenue Department or by the Forest Department; or

(ii) areas restored under Section 22 A of the Private Forest Act, but has been used for non-forestry purposes in violation of the provisions of the FC Act.

43. The CEC is of the view that even if construction on such areas have taken place after the approval of the layout plans, non-agricultural permission, approval of the building plans, IOD, Commencement Certificate, etc. such cases should not be permitted to be regularized. Non-forest use of these areas have taken place knowingly and in violation of the provisions of the FC Act.

Category IV :

44. These are cases pending for enquiry under Section 22(A). In such cases, after the prescribed enquiry the eligible

areas may be allowed to be restored to the original owner inter alia subject to the following conditions

- (a) such area will not be used for any non-forestry use. However, agriculture and ancillary activities such as horticulture, digging of wells, construction of overhead tank etc. will be permissible.
- (b) No non-agricultural (NA) permission will be granted by the concerned authorities
- (c) in the land records maintained by the Forest Department as well as the Revenue Department status of the land will be recorded as 'restored private forest'.
- (d) No approval under the FC Act for the non-forestry use will be considered without leave of the Hon'ble Supreme Court; and
- (e) before restoration, approval under the FC Act will be taken. Such approval may be granted without the payment of the NPV and the compensatory afforestation charges.

45. It is also recommended that a Committee comprising of one representative each of the Ministry of Environment &

Forests, Government of Maharashtra in Revenue and Forest Department, Principal Chief Conservation of Forests, Maharashtra, Forest Department and one reputed NGO, may be constituted by this Hon'ble Court for examination of the details of each of the cases and for placing them in appropriate category. The Committee may be empowered to call for relevant records and seek presence of concerned officials. Based on the Report of the above said Committee, a consolidated proposal may be prepared by the State of Maharashtra and which may be considered for approval under the FC Act subject to the payment of the amount(s) as recommended above. The amount so received may be kept in a designated bank account and may be used for the implementation of the special schemes, to be prepared by the MoEF in consultation with the State of Maharashtra, for the conservation and protection of forests and wildlife.

This Hon'ble Court may please consider the above Report and may please pass appropriate order in the matter.



(M.K. Jiwrajka)
Member

Dated: 13th July, 2009

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MAHARASHTRA ACT No. XXIX OF 1975.¹

[THE MAHARASHTRA PRIVATE FORESTS (ACQUISITION) ACT, 1975.]

[Received the assent of the President on the 25th day of August 1975;² assent first published in the *Maharashtra Government Gazette*, Part IV, on the 29th August 1975.]

Amended by Mah. 72 of 1975 (1-10-1975)[^]

Amended by Mah. 14 of 1978 (26-4-1978)[^]

Amended by Mah. 5 of 1980 (12-2-1980)[^]

Amended by Mah. 5 of 1998

An Act to acquire private forests in the State and to provide for certain other matters.

²[WHEREAS the forest land in the State is inadequate;

AND WHEREAS the private forest in the State is generally in a highly degraded and over-exploited state, and is adversely affecting agriculture and agricultural population;

AND WHEREAS it is, therefore, expedient to acquire private forests in the State of Maharashtra generally for conserving their material resources and protecting them from destruction or over-exploitation by their owners and for promoting systematic and scientific development and management of such forests for the purpose of attaining and maintaining ecological balance in the public interest, for improving the socio-economic conditions of the rural population, and particularly of the adivasis and other backward communities who generally live in forest areas, for developing as pasture the forest suitable for the purpose, for assigning a part of the private forest to the rural community, for controlling the soil erosion both in the forest areas and the lower level agricultural lands, for conserving soil moisture, for improvement of the water regime and raising the water table, for retarding the situation of dams and tanks, for distribution of forest produce for the common good and preventing the concentration of forest wealth to the common detriment, for distribution of the mature exploitable forest produce as best to subserve the common good, for promoting employment opportunities based on the forest, for

¹ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1975, Part V, page 560.
² Maharashtra Ordinance No. 11 of 1978 was repealed by Mah. 14 of 1978, s.5.
[^] This indicates the date of commencement of Act.
² This preamble was deemed always to have been substituted for the original by Mah. 72 of 1975, s.2.
² Maharashtra Ordinance No. XIII of 1975 was repealed by Mah. 72 of 1975, s.6.

the mature exploitable forest produce as best to subserve the common good, for promoting employment opportunities based on the forest, for meeting the requirements of forest produce including fire-wood with a view *inter-alia*, to decrease the dependence on cow-dung, and in particular, for afforestation of private forest wherever feasible on scientific lines, and thereby create conditions for the preservation of soil, conservation of water, prevention of erosion of soil and for improvement of land and underground water resources to the best interests of agriculture and agriculturists in such private forests and other land in the State, and for undertaking schemes ¹[for such purposes;

AND WHEREAS it is also expedient to provide that in case of owners of private forest (other than those whose lands were used for extracting minor minerals such as stone quarries), whose total holdings of lands became less than twelve hectares on the appointed day on account of acquisition of their forest lands under this Act, or whose total holdings of lands was already less than twelve hectares on the day immediately preceding the appointed day, the whole or the appropriate portion of their forest lands so acquired shall be restored to, and re-vested in, them, so that their total holdings of lands may be twelve hectares or less, as the case may be, and they may be able to continue to earn their livelihood from such lands; and to provide for certain other purposes hereinafter appearing;] It is hereby enacted in the Twenty-sixth Year of the Republic of India as follows:-

1. (1) This Act may be called the Maharashtra Private Forests (Acquisition) Act, 1975.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date ² as the State Government may, by notification in the *Official Gazette*, appoint.

2. In this Act, unless the context otherwise requires-

(a) "appointed day" means the date on which this Act comes into force;

(b) "Code" means the Maharashtra Land Revenue Code, 1966;

(c) "Collector" includes an officer not below the rank of a Deputy Collector appointed by the State Government to exercise the powers and perform the duties of the Collector under this Act;

¹ These words were substituted for the words "for these and other purposes as hereinafter provided and to provide for matters connected therein" by Mah. 14 of 1978, s.2, 30th August 1975, vide G.N.R. and F.D. No. PRF. 1073/40845-F-2, dated 29th August 1975.

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Short title, extent and commencement

Definitions

Mah. XLI of 1966.

[(c-1) "forest" means a tract of land covered with trees (whether standing, felled, found or otherwise), shrubs, bushes, or woody vegetation, whether of natural growth or planted by human agency and existing or being maintained with or without human effort, or such tract of land on which such growth is likely to have an effect on the supply of timber, fuel forest produce, or grazing facilities, or on climate, stream flow, protection of land from erosion, or other such matters and includes-

(i) land covered with stumps of trees of forest;

(ii) land which is part of a forest or lies within it or was part of a forest or was lying within a forest on the 30th day of August 1975;

(iii) such pasture land, water-logged or cultivable or non-cultivable land, lying within or linked to a forest, as may be declared to be a forest by the State Government;

(iv) forest land held or let for the purpose of agriculture or for any purpose ancillary thereto;

(v) all the forest produce therein, whether standing, felled, found or otherwise;]

XVI of 1927.

(d) "Forest Act" means the Indian Forest Act, 1927 in its application to the State of Maharashtra;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "private forest" means any forest which is not the property of the Government and includes-

(i) any land declared before the appointed day to be a forest under section 34A of the Forest Act;

(ii) any forest in respect of which any notification issued under sub-section (1) of section 35 of the Forest Act, is in force immediately before the appointed day;

(iii) any land in respect of which a notice has been issued under sub-section (3) of section 35 of the Forest Act, but excluding an area not exceeding two hectares in extent as the Collector may specify in this behalf;

(iv) land in respect of which a notification has been issued under section 38 of the Forest Act;

(v) in a case where the State Government and any other person are jointly interested in the forest, the interest of such person in such forest;

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(vi) sites of dwelling-houses constructed in such forest which are considered to be necessary for the convenient enjoyment or use of forest and lands appurtenant thereto;

(g) "Tribunal" means the Maharashtra Revenue Tribunal constituted or deemed to be constituted under the Code;

(h) Words and expressions used in this Act, but not defined therein shall have the meaning assigned to them in the Code, or as the case may be, in the Forest Act.

3. (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 any order of any Court, Tribunal or any 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 appurtenant thereto, the property of the State Government, and all rights, title and interest of the owner or any person other than the Government subsisting in any such forest on the said day shall be deemed to have been extinguished.

Vesting of private forests in the State Government

(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, for the time being in force or any building or structure standing 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.

4. On acquisition of private forests, the State Government shall take or cause to be taken steps for afforestation of forest lands on scientific basis, for developing the land and utilizing them according to their capability including pastures, for regulating and felling of trees on scientific lines, for promoting soil and water conservation as will best subserve agriculture, for distribution of mature exploitable forest produce as best to subserve the common good and for securing those purposes undertake schemes particularly in the best interests of agriculture and agricultural population of the State. Such schemes may also provide for the utilisation of forest produce in the best interests of the agriculture and

Step to be taken by the Government on acquisition of private forest.

This portion was deemed always to have been substituted for the portion beginning with "and in particular" and ending with "population of the State" by Mah. 72 of 1975, s.4.

agricultural population of the State, and particularly the weaker sections of the community, such as schemes to assist the construction of huts for the landless, schemes for supply of timber for cattle sheds, agricultural implements, bullock carts and houses, trellis and scaffolding for orchards, schemes to promote utilisation of forest produce; such as leaves for manure and fodder, thorns for fencing, grass and grazing for cattle and edible forest produce for consumption, schemes to promote employment opportunities to adivasis and other based on forest produce and schemes calculated to meet such requirements.]

Power to take over possession of Private Forests.

[5: Where any private forest stands required and vested in the State Government under the provisions of this Act, the person authorised by the State Government or by the Collector in this behalf, shall enter into and take over possession thereof, and if any person resists the taking over of such possession he shall, without prejudice to any other action to which he may be liable to be removed by the use of such force as may be necessary.]

Settlement of disputes

6. Where any question arises as to whether or not any forest is a private forest, or whether or not any private forest or portion thereof has vested in the State Government or whether or not any dwelling house constructed in a forest stands acquired under this Act, the Collector shall decide the question, and the decision of the Collector shall, subject to the decision of the Tribunal in appeal which may be preferred to the Tribunal within sixty days from the date of such decision of the Collector, or the order of the State Government under section 18, be final.

Payment of amount to owners of private forests.

of 1894.

7. (1) Every owner of a private forest which vests in the State Government under the provisions of this Act, shall be paid by the State Government, an amount which is equal to twenty times the assessment per hectare of land comprised in such forest, and in respect of dwelling houses, an amount calculated in accordance with the provisions of sections 23 and 24 of the Land Acquisition Act, 1894.

(2) If in any forest land has not been assessed, the amount of assessment for the purpose of this section shall be fixed by the Collector, having regard to the amount of assessment which would have been leviable on the same extent of forest land of similar nature in the same area.

Application for payment of amount.

8. Any owner of a private forest entitled to payment of an amount under section 7 shall, within six months of the appointed day, make an application to the Collector for determining the amount payable to him under section 7.

Section 5 was deemed always to have been substituted for the original by Mah. 72 of 1975, s.5.

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9. (1) On receipt of an application under section 8, the Collector shall, after making a formal enquiry in the manner provided in the Code, make an award determining the amount payable to the owner under section 7.

Collector to determine the amount.

(2) Where the officer making an award under sub-section (1) is a Collector under this Act, but not a Collector appointed under section 7, of the Code, and the amount of such award exceeds fifty thousand rupees, the award shall not be made without the previous approval of the Collector appointed under section 7 of the Code.

10. (1) The amount specified in the award shall be paid in cash to the person entitled thereto.

Manner in which the amount is to be paid.

(2) Where the amount awarded is not paid at the time of or before taking possession of the private forest, the amount awarded shall be payable with interest thereon at the rate of four per cent per annum from the time of taking possession till the time amount is paid.

11. (1) During an inquiry held under section 9, the Collector shall determine in the prescribed manner the amount of encumbrances, if any, lawfully subsisting on the private forest in question, on the appointed day.

Deduction of the amount of encumbrances from the amount payable to the owner.

(2) (a) If the total amount of encumbrances is less than the amount determined as payable to the owner, the amount of encumbrances shall be deducted from the amount determined as payable to the owner. The balance shall then be paid to the owner and the amount so deducted shall be utilised for the payment of the encumbrances; and

(b) If the total amount of encumbrances is equal to or more than the amount determined as payable to the owner, the amount payable to the owner shall be distributed among the holders of the encumbrances in proportion to the respective amounts of encumbrances, and having regard to the claims *inter se* of such holders on the basis of their priorities:

Provided that if any sum of money is due to the State Government by the owner of the private forest, such sum of money shall first be adjusted against the amount payable to such owner, by the State Government and the surplus alone shall be available as the balance to be paid to the owner under clause (a), or as the case may be, as the amount to be distributed amongst the holders of the encumbrances under clause (b).

(3) If the determination of any issue under this section involves any question of law regarding the validity of any encumbrance or the claim of the holder of any encumbrance, or any question regarding the amount due to the holder in respect of the encumbrance, the Collector shall, in the manner prescribed, refer the question for decision to the relevant Civil Judge within the territorial limits of whose jurisdiction the forest is

situated. On receipt of such reference, the Judge concerned shall, after giving notice to the parties concerned; try the question referred to him and record findings thereon; and send the same to the Collector. The Collector shall then give decision in accordance with the said findings.

(4) Nothing in this section shall affect the rights of the holder of any such encumbrance to proceed to enforce against the owner of the private forest his right in any other manner or under any other law for the time being in force.

Payment of amount for extinguishment of rights of other persons.

12. (1) If any person other than the owner of a private forest is aggrieved by any provision of this Act, as extinguishing any right enjoyed by him otherwise than as a member of the general public and such person proves that such extinguishment amounts to the transference to the State Government or to public ownership of such right, such person may apply to the Collector for payment of amount for such extinguishment.

(2) Such application shall be made within six months from the appointed day.

(3) On receipt of an application under sub-section (1), the Collector shall after holding a formal inquiry in the manner provided in the Code and also giving an opportunity to be heard to the owner of the private forest concerned, award such amount to the applicant as the Collector deems reasonable.

(4) The amount so awarded to the applicant shall be liable to be deducted from the amount determined as payable to the owner of such forest under section 7.

Appeals.

13. Notwithstanding anything contained in the Code, an appeal shall lie to the Tribunal against an award of the Collector under section 9 or against any order of the Collector passed under section 11 or 12.

Procedure before Tribunal.

14. (1) The Tribunal shall, after giving notice to both the parties, decide the appeal and record its decision.

V of 1908.

(2) In deciding an appeal under this Act, the Tribunal shall exercise all the powers which a Court has, and shall follow the same procedure which a Court follows, in deciding appeals from a decree or order of an original Court under the Code of Civil Procedure, 1908.

Limitation: 36 of 1936.

15. Save as otherwise provided in section 6, every appeal made under this Act to the Tribunal shall be filed within a period of sixty days from the date of the award, or as the case may be, order of the Collector. The provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963, shall apply to the filing of such appeal.

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16. Notwithstanding anything contained in the Bombay Court-fees Act, 1959, every appeal made under this Act to the Tribunal shall bear a Court-fees stamp of five rupees.

Court fees.
Bom. XXXVI
of 1959.

17. The award made by the Collector under section 9 and an order passed by the Collector under section 11 or 12, subject to an appeal to the Tribunal or to an order of the State Government under section 18, and the decision of the Tribunal on an appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court.

Finality of
award and
decision of
Tribunal.

18. Where no appeal has been filed within the period provided for it against any decision, order or award of the Collector, the State Government may, within a period not exceeding one year from the date of such decision, order or award-

Revision.

(a) call for the record of any inquiry or proceedings of the Collector for the purpose of satisfying itself as to the legality or propriety of any decision, order or award passed by, and as to the regularity of the proceedings of, such Collector, as the case may be, and

(b) pass such order thereon as it deems fit:

Provided that no decision, order or award of the Collector shall be modified annulled or reversed unless opportunity has been given to the interested parties to appear and be heard.

19. All inquiries and proceedings before the Collector and the Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Inquiries and
proceedings
before the
Collector and
Tribunal to be
judicial
proceedings.

XLV of 1860.

20. No suit, prosecution or other legal proceeding shall lie against the State Government, the Tribunal or any officer of the State Government for anything in good faith done intended to be done under this Act.

Indemnity:

21. (1) Whenever it appears to the State Government that any tract of land, not being the property of the Government, contains trees and shrubs, pasture lands and any other land whatsoever, and that it should be declared, in public interest and for furtherance of the objects of this Act, to be a private forest, the State Government shall publish a notification in the *Official Gazette*-

Declaration of
certain lands as
private forests.

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*The Maharashtra Private Forests (Acquisition)
Act, 1971.*

(a) declaring that it is proposed to declare such tract of land to be a private forest; and

(b) specifying as nearly as possible, the situation and limits of such tract.

(2) On the publication of such notification, the Collector or any other officer authorised in this behalf by the State Government shall issue a notice to the owner of such tract of land and to all other persons having an interest in such tract of land, calling on them to show cause, within a reasonable period to be specified in such notice, why such declaration should not be made.

(3) After hearing the objections, if any, of the owner and other persons and considering any evidence that they may produce in support of the same, the Collector, or as the case may be, the authorised officer shall submit his report to the State Government along with the objections, proceedings and his opinion whether the tract of land should or should not be declared to be a private forest.

(4) After taking into consideration the objections, proceedings and report and the opinion of the Collector, or as the case may be, of the authorised officer, the State Government shall decide whether such tract of land or any part thereof should or should not be declared to be a private forest, and such decision shall be final.

(5) If the State Government decides to declare such tract of land or any part thereof to be a private forest, it shall publish such decision by notification in the *Official Gazette*.

(6) Upon publication of the notification under sub-section (5), the tract of land in question or any part thereof shall be deemed to be a private forest and thereupon, all the provisions of this Act shall apply thereto, subject to the modification that the appointed day in relation thereto shall be deemed to be the date of the issue and publication of the notification in the *Official Gazette* under sub-section (5) in relation thereto.

(7) If the State Government decides not to declare such tract of land or any part thereof to be a private forest, it shall communicate its decision to all persons interested in such tract of land or any part thereof.

(8) On the publication of a notification under sub-section (1) in respect of any tract of land, it shall not be lawful for the owner of such tract of land or any other person to do therein, except with the previous permission in writing of the Divisional Forest Officer, any of the following things, for a period of one year from the date of such publication, or till the date of publication of the notification under sub-section (5), or as the case

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Ss.21A-22A *The Maharashtra Private Forests (Acquisition) Act, 1975.*

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may be, till the date of communicating the decision under sub-section (7), whichever period expired earlier, namely:-

- (a) the breaking up or cleaning of the land for cultivation;
 - (b) the pasturing of cattle;
 - (c) the firing or cleaning of the vegetation;
 - (d) the girdling, tapping or burning of any tree or the stripping off the bark or leaves from any tree;
 - (e) the looping and pollarding of tree;
 - (f) the cutting, sawing, conversion and removal of trees and timber;
- or
- (g) the quarrying of stone or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process.

(9) If any person contravenes the provision of sub-section (8), he shall on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

[21-A. Nothing in section 21 shall apply to any non-forest land, not being the property of Government, on which by artificial means or by human agency afforestation is made by planting forest tree species.

Saving of certain afforested lands.

22. (1) Whenever an officer authorised by the State Government in this behalf so directs, the owner of a private forest, which has vested in the State Government under the provisions of this Act, shall deliver to such officer or to such other officer as may be specified in the direction, the records relating to such private forest maintained by the owner.

Owner of private forest to deliver records to authorised officers.

(2) If the owner fails, without reasonable cause, to deliver any such records, he shall, on conviction, be punished with fine which may extend to two hundred rupees and in the case of a continuing failure to deliver any such records, he shall, be punished with an additional fine which may extend to twenty-five rupees for every day during which such failure continues after conviction for the first such failure.

[22A. (1) Notwithstanding anything contained in the foregoing provisions of this Act, if, on an application made by any owner of private forest, within a period of six months from the date of commencement of the Maharashtra Private Forest (Acquisition) (Amendment) Act, 1978, or

Resistor of forest land to the owner in certain circumstances

This Section was inserted by Mah. 5 of 1998, s. 2. Section 22A was inserted by Mah. 14 of 1978, s. 3.

Mah. XI of 1978.

suo motu at any time, the Collector after holding such inquiry as he deems fit, is satisfied that the total holding of the land of such owner became less than twelve hectares on the appointed day on account of acquisition of his forest land under this Act or that the total holding of the land of such owner was already less than twelve hectares on the day immediately preceding the appointed day, the Collector shall determine whether the whole of the forest land acquired from such owner or what portion thereof shall be restored to him, so, however, that his total holding of land, on the appointed day, shall not exceed twelve hectares.

(2) After the Collector has determined the area and situation of the land to be restored to any owner of private forest, the Collector shall make an order, that with effect from the date of his order, the land specified therein, which was acquired and vested in the State Government, shall cease to be a reserved forest within the meaning of the Forest Act, be deemed to have been regranted to the owner and shall be re-vested in him, subject, however, to all encumbrances, if any, lawfully subsisting on the day immediately preceding the appointed day, which shall stand revived. Possession of the land so restored shall be given by the Collector to the owner, as far as may be practicable under the circumstances, within a period of one month from the date of the order.

(3) If the amount payable to the owner of private forest under section 7 has been paid to him or the holder of the encumbrances, if any, the Collector shall determine what would have been the amount or the proportionate amount payable to him under section 7 in respect of the land restored to him under sub-section (2), without taking into consideration the deductions to be made for paying the holder of encumbrances, if any, and shall by order direct the owner to repay the amount so determined to the State Government, within a period of six months from the date of receipt of such order by the owner. If the amount is not repaid in time, it shall be recoverable as an arrear of land revenue. When any amount due is repaid by the owner to the State Government, he shall be entitled to make necessary adjustment with the holders of the encumbrances, if any, for any payment made to them by the State Government in respect of the land re-vested in the owner.

(4) Notwithstanding anything in the Code or this Act, no appeal shall lie against any decision or order of the Collector under this section, but the Commissioner or the State Government may, within a period not exceeding one year from the date of such decision or order,-

(a) call for the record of any inquiry or proceedings of the Collector for the purpose of satisfying itself as to the legality or propriety of such decision or order and as to the regularity of such proceedings, as the case may be, and

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(b) pass such order thereon as it deems fit:

Provided that no such decision or order shall be modified annulled or reversed unless opportunity has been given to the interested parties to appear and to be heard.

(5) Any decision taken or order made under this section by the Collector, subject to any revision by the Commissioner or the State Government, and any order made by the Commissioner or the State Government in revision, shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court.

(6) Nothing contained in this section shall apply to any land in a private forest which was used immediately before the appointed day for extracting of minor minerals such as stone quarries. Accordingly, such land shall not be taken into consideration and shall not be liable to be restored under this section.]

[22B. Notwithstanding anything contained in section 4 or any other provisions of this Act, the Collector may, with the previous approval of the State Government grant, transfer or otherwise make available any private forest vested in the Government under sub-section (1) of section 3, or any portion thereof, for any public purpose, only if any Government land is not available or suitable, or any other land is not found suitable for acquisition under the Land Acquisition Act, 1894, for such public purpose.]

Power of the Collector to grant private forest vested in the State for public purpose in certain cases. 1 of 1894.

23. (1) The State Government may, by notification in the *Official Gazette* and subject to the conditions of previous publication make rules for carrying out the purposes of this Act. Such rule may provide for levy of fees for any of the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

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Repeal of
sections 34A to
37 of Forest
Act.
Mah. XIV of
1978.

24. ¹[(1)] On and from the appointed day, sections 34A, 35, 36, 36A, 36B, 36C and 37 of the Forest Act shall stand repealed.

²[(2)] Notwithstanding anything contained in sub-section (1), on and from the date of commencement of the Maharashtra Private Forests (Acquisition) (Amendment) Act, 1978, sections 34A, 35, 36, 36A, 36B, 36C and 37 of the Forest Act, shall, in respect of the lands restored under section 22A, be deemed to have been re-enacted in the same form and be deemed always to have been in force and applicable in respect of such lands, as if they had not been repealed.

ANNEXURE-R-2

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.17 OF 2002:

Bombay Environment Action
Group & AnrPetitioners

-Versus-

The State of Maharashtra & OrsRespondents

Mr. Gautam Patel i/b M/s. Humranwala & Co. for the
Petitioner

Mr. Ravi Kadam, learned Advocate General with Mrs. Jyoti
Pawar for the Respondents state.

CORAM: DALVEER BHANDARI, CJ &
S.J. VAZIFDAR, J

DATED: 22ND June 2005

P.C.

Bombay Environment Action Group has filed this
Petition in which they claimed that the land records in the
entire State of Maharashtra are incomplete and large number
of problems are encountered because of not updating the land
records in the State of Maharashtra. Otherwise also, this is
an obligation of the State.

2. The learned Advocate General appearing for the State submits that process of updating the lands records is in progress and looking to the massive task the entire work of updating the land records in the State may take another period of one year.
3. We have heard learned Counsel for the parties. In facts and circumstances of this case and on the basis of the statement made by the learned Advocate General, we grant time to the State up to 31st May 2006 to complete the entire land records in the State of Maharashtra.
4. The Chief Secretary of the State is directed to issue circulars within three weeks to the District Collector and Magistrate and other concerned officials directing them to complete the entire proceedings as expeditiously as possible and, in any event, on or before 31st May, 2006
5. In view of the above statement of the Advocate General, nothing further survives in this Petition. The Petition is disposed of accordingly with liberty to the Petitioners to revive the Petition in updating of land records in the State of Maharashtra in not complete by 31st May, 2006.

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6. The learned Advocate General undertakes to file quarterly report regarding the progress of the work before the Registrar General indicating the extend of work completed with a copy of the same to be given to the learned Counsel for the Petitioners. This Petition is accordingly disposed of.

Sd/- Chief Justice

Sd/-S.J. Vazifdar, J

[True copy]

ANNEXURE-R-3

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

W.P.NO. 1578 OF 2006

Runwal Construction

...Petitioner

-Versus-

State of Maharashtra & Ors

..Respondents

Mr. I. Chagla Senior Counsel i/b Mahimtura & Co. for
petitioner

Mr. K.R. Beloscy AQP for Respondent Nos.1 to 4.

Ms. Trupti Puranik Adv. for Respondent No.5

CORAM: F.I. REBELLO AND
SMT. V.K. TAHILRAMANI, JJ.

DATE: JULY 25, 2006

P.C.

1. Rule. In this case, the Notification came to be issued in the year 1957 under Section 35 of the Indian Forest Act. There is nothing on record to indicate that a further Notification as contemplated, was issued under Section 35(1) of the Indian Forest Act. The record thereafter discloses the development plan of 1967. The area was shown as filling in an area designated for industrial use.
2. In the year 1975, the State of Maharashtra enacted the Maharashtra Private Forest (Acquisition) Act, 1975. By virtue of Section 2(f) (3) of the said Act, if Notification is

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issued under Sub-section (3) of Section 35 of the Forest Act for the purpose of Act of 1975, it will be deemed to be a private forest and by virtue of Section 7, the amount of compensation is to be determined.

3. The question still remains if after Notification was issued under Section 35(3) and no Notification was issued under Section 35(1) and land in the development plan was reserved for industrial development, by Notification of 1967 and also subsequent plans were sanctioned, whether it is open now to treat the said land as forest for the purpose of Act of 1975. Development has already taken place on the land. Apart from the original owners, third party rights have been created. In this view of the matter, we are of the opinion that the interim relief as prayed for ought to be granted. Considering that, there shall for ought to be granted. Considering that, there shall be an interim relief in terms of prayer clauses (b), (c) and (d). Needless to say that this will be subject to the final orders in the petition. It is made clear that petitioners and/or persons claiming through them will claim no equity.

Sd/-[F.I. REBELLO, J.]

Sd/-[Smt. V.K. TAHILRAMANI, J]

ANNEXURE-R-4

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1957 OF 2006

Oberoi Constructions Private Ltd. & Anr.Petitioners

Versus

State of Maharashtra & 4 others Respondents
Mr.I.M.Chagla, Sr.Counsel wth Mr.N.Agarwal I/b Mahlmtura & Co. for the
petitioners.

Mr.K.R.Belosey, AGP for respondent Nos.1 to 4.

Mr.P.A.Purandhare, Advocate for respondent No.5.

CORAM: F.I.REBELLO AND SMT.V.K.TAHILRAMANI, JJ.

DATED: AUGUST 11, 2006.

P.C.:

1. Rule. It is pointed out on behalf of the petitioners that earlier this court whilst admitting Writ Petition No.1722 of 2006, has been pleased to grant interim relief in Writ Petition N.1722 of 2006. As the issues are same as also relief, the petitioners would be entitled to the same interim relief. In this case, our attention has been invited to the judgment of this Court in Chintamani Gajanan Velkar Vs. State of Maharashtra & Ors. : 2003 (3) SCC 143. In the earlier petition we had proceeded on the basis, that apart from notice under Section 35(3) of the Indian Forest Act, a notification thereafter had to be issued under Section 35(1). The Apex Court considering Section 2(f) of the Maharashtra Private Forests (Acquisition) Act, 1975, has held in Chintamani Gajanan Velkar (supra) that there is no requirement of notification being issued under Section 35(1) of the Maharashtra Private Forests (Acquisition) Act, 1975, once a notice has been issued under Section 35(3). Considering that prima facie whether the land vests or not in the Government will have to be decided by the

ITEM NO.48

COURT NO.1

SECTION IX

ANNEXURE-R-F

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S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17967/2006
(From the judgement and order dated 11/08/2006 in WP No. 1957/2006 of
The HIGH COURT OF BOMBAY)

OBEROI CONSTN. PVT. LTD. & ANR.

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(With appln(s) for urging addl. grounds, impleadment, permission to
file additional documents, placing addl. documents and prayer for
interim relief and office report)
WITH SLP(C) NO. 10900 of 2006 ✓
(With prayer for interim relief and office report)
SLP(C) NO. 14068 of 2006 ✓
(With prayer for interim relief)
SLP(C) NO. 14072 of 2006 ✓
(With appln. for permission to file addl. documents and with prayer for
interim relief and office report)
SLP(C) NO. 14073 of 2006 ✓
(With prayer for interim relief and office report)
SLP(C) NO. 18134 of 2006 (With appln. for permission to file addl.
documents and impleadment and with prayer for interim relief and office
report)
SLP(C) NO. 20542 of 2006
(With appln. for impleadment and with prayer for interim relief and
office report)
SLP(C) NO. 21688 of 2006
(With prayer for interim relief and office report)
SLP(C) NO. 21690 of 2006
(With prayer for interim relief and office report)
SLP(C) NO. 21693 of 2006
(With prayer for interim relief and office report)
S.L.P.(C)...CC NO. 209 of 2007
(With I.A.1 (c/delay in filing SLP and office report)
S.L.P.(C)...CC NO. 4154 of 2007
(With I.A.1 (c/delay in filing SLP and office report)
S.L.P.(C)...CC NO. 4155 of 2007
(With I.A.1 (c/delay in filing SLP)

Date: 28/04/2008 These Petitions were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE R.V. RAVEENDRAN
- HON'BLE DR. JUSTICE NUKUNDAKAM SHARMA

For Petitioner(s)

Mr. P.K. Manohar, Adv.
Mr. Ashok Kumar Gupta, Adv.
Mr. Shaillesh, Adv
Mr. Farrukh Rasheed, Adv.
Mr. P.K. Manohar, Adv.
Mr. E.C. Agrawala, Adv.
Mr. Mahesh Agrawal, Adv.
Mr. Rishi Agrawal, Adv.
Mr. Gaurav Goel, Adv.
Mr. Amit Kr. Sharma, adv.
Mr. Ashutosh Garg, Adv.
Mr. V.N. Faghupathy, Adv.
Mr. Fali S. Nariman, Sr. Adv.
Mr. Jai Munim, Adv.
Mr. Ajay Bhargava, Adv.
Ms. Vanita Bhargava, Adv.
Mr. Susmit Pushkar, Adv. for
M/S. Khaitan & Co.

For Respondent (s)
for: BEAG.

Ms. Indu Malhotra, Sr. Adv.
Ms. Philpa Singh, Adv.
Mr. V.B. Joshi, Adv.
Mr. Kailash Pandey, Adv.

For R:5

Mr. Pallav Shishodia, Adv.
Mr. D.N. Mishra, Adv.
Ms. Aritha Shenoy, Adv.
Mr. Sanjay Kharda, Adv.
Ms. Asha Gopalan Nair, Adv.
Mr. Jatin Zaveri, Adv.
Mr. Vikas Mehta, Adv.
Ms. Pooja Dhar, Adv.
Mr. Joseph Rookkatt, Adv.
Mr. Prashant Kumar, Adv. for
M/S. AP & J Chambers.

UPON hearing counsel the Court made the following

ORDER

As requested by Mr. V.B. Joshi, learned counsel, de-tagged
SLP(C) Nos. 10900, 14068, 14072 and 14073/2006.

In Rest of the matters

These petitions have been filed against an interim order passed
by the High Court of Bombay in the pending writ petitions. It is stated
that the writ petitions have been disposed of on 24.3.2008. Therefore,
the special leave petitions are dismissed as having become infructuous
without prejudice to the rights of the petitioners.

(SUMAN WADHWA)
COURT MASTER

(VEERA VERMA)
COURT MASTER

ANNEXURE-R-6

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ITEM NO.24 & 55

COURT NO.1

SECTION 1X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

181304

Petition(s) for Special Leave to Appeal (Civil) No(s).10677/2008

(From the judgment and order dated 24/03/2008 in WP No. 2196/2006 of The HIGH COURT OF BOMBAY)

GODREJ & BOYCE MFG.CO.LTD. & ANR.

VERSUS

STATE OF MAHARASHTRA & ORS.

Certified to be true copy	Petitioner(s)
Assistant Registrar (Judl)	
08/05/08	Respondent(s)
Supreme Court, India.	

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

WITH

• SLP(C) NO. 10730 of 2008,

(With appln(s) for exemption from filing c/c of the impugned Judgment and exemption from filing O.T. and permission to place addl. documents on record and prayer for interim relief and office report)

SLP(C) NO. 10760 of 2008, SLP(C) NO. 11509 of 2008

SLP(C) NO. 11640 of 2008

(With appln(s) for exemption from filing c/c of the impugned Judgment and exemption from filing O.T. and prayer for interim relief and office report)

SLP(C) NO. 11055 of 2008, SLP(C) NO. 11057 of 2008,

SLP(C) NO. 11401 of 2008, SLP(C) NO. 11393 of 2008

SLP(C) NO. 11398 of 2008

(With appln(s) for exemption from filing c/c of the impugned Judgment and exemption from filing O.T. and permission to file lengthy list of dates and prayer for interim relief and office report)

SLP(C) NO. 11622 of 2008, SLP(C) NO. 11634 of 2008

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

Date: 05/05/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE MUKUNDKAM SHARMA

FOR PETITIONER(S)

Mr. F.S. Nariman, Sr. Adv.
Mr. Jai Muniam, Adv.
Mr. Ajay Bhargava, Adv.
Ms. Vanita Bhargava, Adv.
Mr. Sumit Puskar, Adv.
For M/S. Khaitan & Co., Adv.

SLP(C) 11622/08

Mr. F.S. Nariman, Sr. Adv.
Mr. E.C. Agrawala, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Mr. Gaurav Goel, Adv.
Mr. Amit Kumar Sharma, Adv.
Mr. Shailesh Kalambi, Adv.

SLP(C) 11634/08

Mr. E.C. Agrawala, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Mr. Gaurav Goel, Adv.
Mr. Amit Kumar Sharma, Adv.
Mr. Ashutosh Garg, Adv.

Mr. Anil B. Diwan, Sr. Adv.
Mr. Shailesh C. Mahimtura, Adv.
Mr. Jatin Zaveri, Adv.

SLP(C) NO. 10730/08

Mr. F.S. Nariman, Sr. Adv.
Mr. Ashok Kumar Gupta, Adv.
Mr. Shailesh Mahimtura, Adv.
Mr. Farrukh Rasheed, Adv.

SLP(C) NO. 11055/08,
SLP(C) NO. 11401/08

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Ashok Kumar Gupta, Adv.
Mr. Shailesh Mahimtura, Adv.
Mr. Farrukh Rasheed, Adv.

SLP(C) NO. 11057/08

Mr. Ashok Kumar Gupta, Adv.
Mr. Shailesh Mahimtura, Adv.
Mr. Farrukh Rasheed, Adv.

SLP(C) NO. 11398/08

Mr. Aspi Chinoy, Sr. Adv.
Mr. Ashok Kumar Gupta, Adv.
Mr. Shailesh Mahimtura, Adv.

SLP(C) NO. 11509/08

Mr. Ashok Kumar Gupta, Adv.
Mr. Shailesh Mahimtura, Adv.
Mr. Jatin Zaveri, Adv.

SLP(C) No. 11640/08

Mr. K.K. Venugopal, Sr. Adv.
Mrs. Pooja Dhar, Adv.
Ms. Girija, Adv.
Mr. Joseph Pookkatt, Adv.
For M/S. Ap & J Chambers, Adv.

Ms. Pinky Anand, Adv.
Mr. D.N. Goburdhan, Adv.

For Respondent(s)

Mr. G.E. Vahanvati, SG
Mr. Sanjay Kharde, Adv.
Ms. Asha G. Nair, Adv.
Mr. Ravindra K. Adsure, Adv.

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Mr. T. Anshyarajina, Sr. Adv.
Mr. Shyam Diwan, Sr. Adv.
Ms. Shilpa Singh, Adv.

UPON hearing counsel the Court made the following
O R D E R

Issue notice.

Status quo as on today shall be maintained.

In this disputed land, which alleged to be forest land, there shall not be any further construction by the petitioners. The petitioners shall not create any third party rights hereinafter. The respondent shall not take any further action till the the next date of hearing i.e. 22.8.2008.

List on 22.8.2008.

scd
(R.K. DHAWAN)
COURT MASTER

scd
(VEERA VERMA)
COURT MASTER

ANNEXURE-RF

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EM 19, 20 & 47

COURT NO.1

SECTION IX

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).10677/2008

(From the judgement and order dated 24/03/2008 in WP No. 2196/2006 of The HIGH COURT OF BOMBAY)

GODREJ & BOYCE MFG.CO.LTD. & ANR.

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment and prayer for interim relief and office report)

WITH

SLP(C) NO. 10730 of 2008, SLP(C) NO. 10760 of 2008

SLP(C) NO. 11055 of 2008, SLP(C) NO. 11057 of 2008

SLP(C) NO. 11393 of 2008, SLP(C) NO. 11398 of 2008

SLP(C) NO. 11401 of 2008, SLP(C) NO. 11509 of 2008

SLP(C) NO. 11622 of 2008, SLP(C) NO. 11634 of 2008

SLP(C) NO. 11640 of 2008, SLP(C) NO. 12408 of 2008

(With appln. for exemption from filing c/c of the impugned judgment and exemption fr filing O.T. and permission to place addl. documents/lengthy list of dates with praye interim relief and office report)

WITH

SLP(C) NO.15791/2008, SLP(C) NO.16470/2008

(With prayer for interim relief and office report)

WITH

SLP(C) NO,21389/2008

(With appln. for c/delay in refiling SLP and office report)

Date: 29/08/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE P. SATHASIVAM

HON'BLE MR. JUSTICE J.M. PANCHAL

For Petitioner(s) Mr. Atul Sharma Mathur, Adv.

M/s. Nupur Mukherjee, D. Maheshwari, Advs.

For M/S. Khaitan & Co., Adv.

M/s. Ashok Kumar Gupta, Farrukh Rasheed,

Manoranjan Paikrfa, Shailesh M., Advs.

SLP(C) 10760/08 Mr. R.F. Nariman, Sr. Adv.

Mr. S.C. Mahimtura, Adv.

Mr. Jatin Zaveri, Adv.

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SLP(C) 11509/08 Mr. Abhishek Singhvi, Sr. Adv.
Mr. S.C. Mahimtura, Adv.
Mr. Jatin Zaveri, Adv.

M/s. E.C. Agrawala, Mahesh Agarwal, Adv.
Rishi Agrawala, Gaurav Goel,
Amit Kumar Sharma, Adv.

Ms. Hetu Arora, Adv.

M/s. Anurag Sharma, Joseph Pookkatt,
Prashant Kumar, Pooja Dhar, Adv.
For M/S. Ap & J Chambers, Adv.

SLP(C) No.21398/08 Mr. Manish Kumar, Adv.
Mr. Rakesh K. Sharma, Adv.

For Respondent(s) Mr. G.E. Vahanvati, SG
Mr. Ravi Kadam, Adv.General, Maharashtra
Mr. Ravindra K. Adsure, Adv.

Ms. Shilpa Singh, Adv.

JLP(C) 15791/08 Mr. Sanjay V. Kharde, Adv.
Ms. Asha Gopalan Nair, Adv.

Ms. Pinky Anand, Adv.
Mr. D.N. Goburdhan, Adv.
Ms. Geeta Luthra, Adv.

M/s. Pallav Shishodia, Atul Y. Chitale,
Suchitra Atul Chitale, Tanya Mehta, Adv.

UPON hearing counsel the Court made the following
ORDER

As requested six weeks time is granted for filing Counter affidavit.
I.A.Nos. 2352-2353/2008 are taken on Board
These applications filed by the State of Maharashtra for directions are
hereby referred to CEC for Report. Report of CEC awaited.

SLP(C) No.21389/08

Delay condoned.
Issue notice.

(R.K.DHAWAN)
COURT MASTER

(VEERA VERMA)
COURT MASTER