2025 INSC 1296

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 5454 OF 2019

ROHAN VIJAY NAHAR & ORS. ...Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS. ...Respondent(s)

WITH

CIVIL APPEAL No. 5501 OF 2019

CIVIL APPEAL No. 5511 OF 2019

CIVIL APPEAL No. 14074 OF 2024

CIVIL APPEAL No. 14075 OF 2024

CIVIL APPEAL No. 14076 OF 2024

CIVIL APPEAL No. 14077 OF 2024

CIVIL APPEAL No. 14087 OF 2024

CIVIL APPEAL No. 14078 OF 2024

CIVIL APPEAL No. 14083 OF 2024

CIVIL APPEAL No. 14079 OF 2024

CIVIL APPEAL No. 14080 OF 2024

CIVIL APPEAL No. 14081 OF 2024

CIVIL APPEAL No. 9434 OF 2019

CIVIL APPEAL No. 5468 OF 2019

CIVIL APPEAL No. 5458 OF 2019

CIVIL APPEAL No. 5473 OF 2019

CIVIL APPEAL No. 5455 OF 2019

CIVIL APPEAL No. 5466 OF 2019

CIVIL APPEAL No. 5456 OF 2019

CIVIL APPEAL No. 5457 OF 2019

CIVIL APPEAL No. 5460 OF 2019

CIVIL APPEAL No. 5469 OF 2019

CIVIL APPEAL No. 5462 OF 2019

CIVIL APPEAL No. 5503 OF 2019

CIVIL APPEAL No. 5465 OF 2019

CIVIL APPEAL No. 5459 OF 2019

CIVIL APPEAL No. 5461 OF 2019

CIVIL APPEAL No. 5467 OF 2019

CIVIL APPEAL No. 5463 OF 2019

CIVIL APPEAL No. 5464 OF 2019

CIVIL APPEAL No. 5483 OF 2019

CIVIL APPEAL No. 5834 OF 2019

CIVIL APPEAL No. 5504 OF 2019

CIVIL APPEAL No. 5512 OF 2019

CIVIL APPEAL No. 5474 OF 2019

CIVIL APPEAL No. 5508 OF 2019

CIVIL APPEAL No. 5476 OF 2019

CIVIL APPEAL No. 5506 OF 2019

CIVIL APPEAL No. 5478 OF 2019

CIVIL APPEAL No. 5487 OF 2019

CIVIL APPEAL No. 5480 OF 2019

CIVIL APPEAL No. 5481 OF 2019

CIVIL APPEAL No. 5608 OF 2019

CIVIL APPEAL No. 14105 OF 2024

CIVIL APPEAL No. 5502 OF 2019

CIVIL APPEAL No. 5509 OF 2019

CIVIL APPEAL No. 5513 OF 2019

CIVIL APPEAL No. 1592 OF 2023

CIVIL APPEAL No. 5505 OF 2019

CIVIL APPEAL No. 5507 OF 2019

CIVIL APPEAL No. 1504 OF 2020

CIVIL APPEAL No. 574 OF 2020

CIVIL APPEAL No. 582 OF 2020

CIVIL APPEAL No. 576 OF 2020

CIVIL APPEAL No. 14086 OF 2024

CIVIL APPEAL No. 14098 OF 2024

CIVIL APPEAL No. 14088 OF 2024

CIVIL APPEAL No. 14089 OF 2024

CIVIL APPEAL No. 14106 OF 2024

CIVIL APPEAL No. 14094 OF 2024

CIVIL APPEAL No. 14097 OF 2024

CIVIL APPEAL No. 6245 OF 2019

CIVIL APPEAL No. 1538 OF 2020

CIVIL APPEAL No. 1721 OF 2020

CIVIL APPEAL No. 3433 OF 2020

CIVIL APPEAL No. 1594 OF 2023

CIVIL APPEAL No. 14082 OF 2024

CIVIL APPEAL No. 14085 OF 2024

CIVIL APPEAL No. 14073 OF 2024

CIVIL APPEAL No. 14070 OF 2024

CIVIL APPEAL No. 14103 OF 2024

CIVIL APPEAL No. 14104 OF 2024

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CIVIL APPEAL No. 5500 OF 2019

J U D G M E NT

VIKRAM NATH, J.

1. The judiciary draws its strength from discipline and not dominion. The Constitution of India creates courts of record that are independent in their spheres and yet binds them together through a coherent hierarchy. The High Courts in India possess a wide jurisdiction, but the Supreme Court of

India remains the final interpreter of law. Article 141 of the Constitution of India[1] declares that the law laid down by this Court binds every court in the country. Further, Article 144 of the Constitution obliges all authorities, civil and judicial, to act in aid of this Court. These are not ceremonial recitals. They are the structural guarantees that convert dispersed adjudication into a single system that speaks with one voice and commands public confidence.

2. Appellate jurisdiction exists to correct errors and to settle the law so that like cases receive like outcomes. When a superior court reverses, modifies, or remands, the court below must give full and faithful effect to that disposition. The authority to decide on appeal carries the authority to require compliance, for without obedience, the hierarchy would become an empty form. Resistance or evasion does not merely disserve a party before the court, it erodes predictability, multiplies litigation, and weakens faith in the rule of law. The maxim *"interest reipublicae ut sit finis litium"* which literally means that it is in the public interest that litigation should come to an end, reminds us that the society has an interest in achieving finality, and finality from the apex court is the glue that holds a nationwide system of justice together.

3. Judicial discipline is the ethic that turns hierarchy into harmony. It requires courtesy, restraint, and obedience to binding precedent even where a judge is personally unpersuaded. The lawful course is to apply the precedent and, if needed, record reasons for inviting a larger Bench to

[1] Hereinafter referred to as, "the Constitution"

reconsider it. The unlawful and unjust course is to distinguish in name while disregarding in substance or to recast issues in order to sidestep a rule that binds. "*Stare decisis et non quieta movere"* which means to stand by decisions and not to disturb settled matters, is not a slogan but a safeguard of equality before the law. Judges do not sit to settle scores. The gavel is an instrument of reason and not a weapon of reprisal. A vindictive stance is incompatible with the oath to uphold the Constitution and the law.

4. Judges across our country must remember that collegiality is the companion virtue of independence and that a reversal on appeal is not a personal affront but the ordinary operation of a constitutional hierarchy that corrects error and settles law. Respect for the senior jurisdiction is not subservience. It is an acknowledgment that all courts pursue a common enterprise to do justice according to law. An Appellate Court reviews and, where necessary, sets right the decision of the lower court with restraint and measured language, and the courts below reciprocate through prompt, reasoned, and transparent compliance. Courts speak through reasons, and reasons that align with binding authority preserve both legality and legitimacy of the judiciary. Articles 141 and 144 of the Constitution make obedience a constitutional duty and not a matter of personal preference. A judgment that attempts to resist binding authority undermines the unity of law, burdens litigants with avoidable expense and delay, and invites the perception that outcomes depend on the identity of the judge. In a constitutional judiciary, it is the law, as declared, that

brings the conversation to a close. We restate the simple duty of Courts: apply precedent as it stands and give effect to appellate directions as they are framed. In that discipline lies the confidence of litigants and the credibility of courts.

5. The present batch of 96 civil appeals arises from the judgment dated 27.09.2018 rendered by the High Court of Judicature at Bombay in a group of writ petitions preferred by the appellants. The High Court declined to interfere with the revenue mutations and annotations that described the subject lands as affected by forest proceedings and as having vested in the State. The High Court proceeded on the footing that notices said to have been issued around 1960 and published in the Official Gazette were sufficient foundation to treat the lands as private forest under the acquisition regime. On this approach the High Court dismissed the writ petitions and refused the declaratory and consequential reliefs sought by the landholders. One of those petitions is Writ Petition No. 6417 of 2015 which has given rise to the civil appeal before us titled *"Rohan Vijay Nahar and Others versus The State of Maharashtra and Others."*

6. Before proceeding to the specific facts of these appeals, it is necessary to set out the provisions central to the matters before us.

   6.1. The Indian Forest Act, 1927[2], as adapted and amended in the erstwhile State of Bombay and in the State of Maharashtra, contains Chapter V which deals with control over forests and lands not being the property of

[2] Hereinafter referred to as, "IFA"

Government. By the Indian Forest Act as amended by Bombay Act 62 of 1948, Section 34-A was inserted to provide an inclusive definition of "forest" for the purposes of Chapter V. By the same amending law, "wastelands" were removed from the reach of certain parts of Chapter V with effect from 04.12.1948. Further amendments were carried out by Bombay Act 24 of 1955 and by Maharashtra Act 6 of 1961. Section 35 of this Act empowers the State Government to regulate or prohibit specified activities in any forest for stated public purposes. The aforementioned provisions have been reproduced hereunder:

> ***"34A. Interpretation :-*** *For the purposes of the Chapter "forest" includes any land containing trees and shrubs, pasture, lands and any other land whatsoever which the State Government may, by notification in the Official Gazette, declare to be a forest.*
>
> ***35. Protection of forests for special purposes*** *:-*
>
> *(1) The State Government may, by notification in the Official Gazette-*
>
> *(i) regulate or prohibit in any forest-*
>
> *(a) the breaking up or clearing of the land for cultivation ;*
>
> *(b) the pasturing of cattle;*
>
> *(c) the firing or clearing of the vegetation;*

(d) the girdling, tapping or burning of any tree or the stripping off the bark or leaves from any trees;
(e) the lopping and pollarding of trees;
(f) the cutting, sawing, conversion and removal of trees and timber; or
(g) the quarring 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;

(ii) regulate in any forest the regeneration of forests and their protection from fire; when such regulation or prohibition appears necessary for any of the following purposes;
(a) for the conservation of trees and forests;
(b) for the preservation and improvement of soil or the reclamation of saline or water logged land, the prevention of landslips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel;
(c) for the improvement of grazing;
(d) for the maintenance of a water supply in spring, river and tanks;
(e) for the maintenance, increase and distribution of the supply of fodder, leaf manure, timber or fuel;
(f) for the maintenance of reservoirs or irrigation works and hydro-electric works;

(g) for protection against storms, winds, rolling stones, floods and drought;
(h) for the protection of roads, bridges, railways and other lines of communication ; and
(i) for the preservation of the public health.

(2) The State Government may, for any such purpose, construct at its own expense in any forest such work as it thinks fit.

(3) No notification shall be made under sub section (1) nor shall any work be begun under sub section (2), until after the issue by an officer authorised by the State Government in that behalf of a notice to the owner of such forest calling on him to show cause within a reasonable period to be specified in such notice why such notification should not be made or work constructed as the case may be, and until his objection, if any, and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf and have been considered by the State Government.

(4) A notice to show cause why a notification under sub section (1) should not be made, may require that for any period not exceeding one year or till the date of the making of a notification, whichever

is earlier the owner of such forest and all persons who are entitled or permitted to do therein any or all of the things specified in clause (i) of sub section (1), whether by reason of any right, title or interest or under any licence or contract or otherwise, shall not, after the date of the notice and for the period or until the date aforesaid, as the case may be, do any or all the things specified in clause (i) of sub section (1), to the extent specified in the notice.

(5) A notice issued under sub section (3) shall be served on the owner of such 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.

(5A) Where a notice issued under sub section (3) has been served on the owner of a forest in accordance with sub section (5), any person acquiring thereafter the right of a ownership of that forest shall be bound by the notice as if it had been served on him as an owner and he shall accordingly comply with the notice, requisition and notification, if any, issued under this section.

(6) Any person contravening any requisition made under sub section (4) in a notice to show cause

why a notification under sub section (1) should not be made shall, on conviction , be punished with imprisonment for a term which may extend to six months or with fine, or with both.

(7) Any person contravening any of the provision of a notification issued under sub section (1) shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both."

6.2. The Maharashtra Private Forests Acquisition Act, 1975, came into force on 30.08.1975. Section 2(c-i) of this Act defines "forest" for the purposes of that Act.

***"Section 2(c-i)**- "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 thirtieth day of August, nineteen seventy five;

(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 forest by the State Government;

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

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

Section 2(f) defines "private forest" as follows:

"Section 2(f) *- "'private forest' means any forest which is not the property of Government and includes-*

(i) any land declared before the appointed day to be a forest under Section 34-A 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 35 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;
(vi) sites of dwelling houses constructed in such forest which are considered to be necessary for the convenient enjoyment or use of the forest and lands appurtenant thereto;"

Section 3 provides that with effect from the appointed day all private forests in the State shall stand acquired and shall vest in the State Government free from all encumbrances, subject to the limited saving provided in Section 3(2).

*"**Section 3 - Vesting of private forests in State Government***

(1) Notwithstanding anything contained in any law for the time being in force or in any settlement, grant, agreement, usage, custom or any decree or order of any court, tribunal or authority or any other document, with effect on and from the appointed day, all private forests in the State shall stand acquired and vest, free from all

encumbrances, in, and shall be deemed to be, with all rights in or over the same or appertaining thereto, the property of the State Government; and all rights, title and interest of the owner or any person other than Government subsisting in any such forest on the said day shall be deemed to have been extinguished.

(2) Nothing contained in sub-section (1) shall apply to so much extent of land comprised in a private forest as is held by an occupant or tenant and is lawfully under cultivation on the appointed day and is not in excess of the ceiling area provided by Section 5 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 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."

Section 5 authorises State Government entry and taking over of possession of private forests which stand acquired and vested.

*"**Section 5 - Power to take over possession of private forests***

Where any private forest stands acquired 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, be liable to be removed by the use of such force as may be necessary."

Section 24 repeals Sections 34-A, 35, 36, 36-A, 36-B, 36-C and 37 of the Indian Forest Act on and from the appointed day, with a later re-enactment mechanism for restored lands brought in by the Amending Act of 1978 operating through Section 22-A.

"**Section 24 - Repeal of Sections 34-A to 37 of the Forest Act**

"(1) On and from the appointed day, Sections 34-A, 35, 36, 36-A, 36-B, 36-C and 37 of the Forest Act shall stand repealed.

(2) Notwithstanding anything contained in sub-section (1), on and from the date of commencement of the Maharashtra Private Forests (Acquisition) (Amendment) Act, 1978 (14 of 1978), Sections 34-A, 35, 36, 36-A, 36-B, 36-C and 37 of the Forest Act shall, in respect of the lands restored under Section 22-A, 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."

6.3. The Forest (Conservation) Act, 1980, came into force on 25.10.1980. Section 2 of that Act restrains the use of forest land for non-forest purposes without the prior approval of the Central Government and also regulates de-reservation and assignment of forest land.

6.4. The Maharashtra Land Revenue Code, 1966[3], provides the framework for preparation and maintenance of the record of rights and for mutation of entries upon changes in title or enjoyment. The MLRC also provides departmental remedies by way of appeal, revision and correction of entries. These provisions form the revenue backdrop against which the impugned mutations and annotations were made and challenged.

7. The essential factual backdrop common to this batch of appeals may be summarised as under:

[3] Hereinafter referred to as, "MLRC"

7.1 The appellants are landowners in the State of Maharashtra. The factual background across these appeals and cognate matters that have reached the High Court and this Court over time is broadly similar with only minor variations. The Respondent State Authorities assert that during the early 1960s notices under Section 35(3) of the IFA were issued and published in the Official Gazette. The stated purpose of these notices was to call upon owners of lands described as forest to show cause why regulatory measures under Section 35(1) of the IFA should not be made and to afford them an opportunity of objection and hearing, including interim restraint as contemplated by Section 35(4) of the IFA. Such notices were said to have been addressed to the appellants and to other similarly placed private landholders in the concerned districts. The landowners allege that such notices were not personally served as contemplated by Section 35(5) of the IFA, that no inquiry on objections was ever held, and that no proceedings culminated in a final notification under Section 35(1) of the IFA. The landowners state that the proceedings then lay dormant for extended periods.

7.2 The Maharashtra Private Forests Acquisition Act, 1975[4] commenced on 30.08.1975. The landowners allege that even after its commencement the State Authorities did not take possession under Section 5 of the MPFA and for decades the lands continued to be dealt with as private holdings. Transfers were effected, permissions were

[4] Hereinafter referred to as, "MPFA"

granted by revenue and charity authorities, planning documents described the lands as agricultural or no development zones, possession remained with private owners or transferees, and no compensation was paid. The State Authorities, on the other hand, contend that publication of the notices and the inclusive definition of private forest in Section 2(f)(iii) of the MPFA furnished the legal basis for vesting.

7.3 Beginning around 2001, the State Authorities initiated an administrative exercise to annotate village records so as to reflect affectation by forest proceedings and vesting under the MPFA. Talathis and Circle Officers made entries in village forms including the other rights column of Form VII and Form XII with references to notices under Section 35(3) of the IFA from the 1960s and in several matters the name of the State was thereafter carried into the ownership column. The landowners allege that these mutations were made without prior notice and without adherence to the MLRC. The State Authorities state that the entries were ministerial reflections of statutory consequences.

7.4 The annotations and mutations produced collateral effects. Sub-Registrars declined registration of instruments having regard to departmental instructions. Possession nonetheless remained with private parties. No award of compensation was made. Departmental remedies under the MLRC were invoked by several landholders but many such proceedings did not reach adjudication. In that situation writ petitions were filed seeking correction of

records, declaratory relief regarding title and vesting, and restoration of entries consistent with private title and possession. This pattern also appears in cognate matters already decided, and it forms part of the common factual narrative that frames the present batch.

8. The nature of the challenges brought before the High Court across this subject matter, including earlier cognate petitions, was as follows:

8.1 The landholders approached the High Court by various petitions to question the legality of revenue annotations and mutation entries that described their lands as affected by forest proceedings and as having vested in the State. They sought quashing of those entries and a declaration that their lands were not private forests within the meaning of the MPFA. They also prayed for directions to restore the record of rights in the names of the private owners and for consequential reliefs to protect title and possession.

8.2 The principal grounds urged by the petitioners were that publication of a notice under Section 35(3) of the IFA in the Official Gazette without personal service under Section 35(5) of the IFA could not lawfully found any adverse consequence. They pleaded that no inquiry on objections was ever held and that no notification under Section 35(1) of the IFA was ever issued. They asserted that the proceedings lay dormant for decades and that a stale or inchoate notice could not trigger vesting under Section 3 of the MPFA. They further contended that possession had never been taken under Section 5 of the MPFA, that

compensation had never been paid, and that the lands continued to be treated as private holdings in revenue and planning processes for long periods. Violations of the MLRC and breach of natural justice were also pleaded.

8.3 The State responded that issuance of notices referable to Section 35(3) of the IFA in the early 1960s brought the lands within the inclusive definition of private forest in Section 2(f)(iii) of the MPFA and that vesting under Section 3 of the MPFA followed as a matter of law. It was submitted that the challenged revenue entries were ministerial reflections of statutory consequences. The State also raised objections regarding delay and laches and pointed to departmental remedies available under the MLRC.

8.4 In many of these petitions the High Court heard the matters together and treated them as raising common questions. The issues framed typically included whether the fact of a notice said to have been issued under Section 35(3) of the IFA was by itself sufficient to attract Section 2(f)(iii) of the MPFA, whether service under Section 35(5) of the IFA and a final notification under Section 35(1) of the IFA were jurisdictional preconditions, whether long dormancy could defeat subsequent assertions of vesting, and whether the impugned mutations could stand in the face of the procedures mandated by the MLRC.

9. In one cognate batch of writ petitions decided by the High Court on 24.03.2008, namely "***Oberoi Constructions Private***

Limited v. State of Maharashtra[5], which was later set aside by this Court in "**Godrej & Boyce Mfg. Co. Ltd. v. State of Maharashtra**[6], the High Court gave the following findings:

9.1 In that matter, the petitioners were real-estate developers who had acquired lands in Mumbai Suburban District long after Gazette publications of notices said to be under Section 35(3) of the IFA. For decades the lands had been treated as non-agricultural and placed in industrial or residential zones under successive development plans. Around 2005–2006, the State Authorities made mutation and annotation entries recording the lands as "private forest" and as vested in the State under the MPFA. The petitioners challenged these entries and the foundational reliance on old Section 35(3) notices, invoking absence of personal service, the lack of any final notification under Section 35(1) of the IFA, prolonged dormancy, and inconsistency with permissions under the Maharashtra Regional and Town Planning Act, 1966 and proceedings under the Urban Land Ceiling law.

9.2 Proceeding principally on two Judge Bench decision of this Court in ***Chintamani Gajanan Velkar v. State of Maharashtra***[7], the High Court held that the expression in Section 2(f)(iii) of the MPFA, "a notice has been issued under Section 35(3) of the IFA", is satisfied by the fact of issuance, which could be evidenced by Gazette publication. Service under Section 35(5) of the IFA or culmination in a

[5] 2008 SCC OnLine Bom 311
[6] (2014) 3 SCC 430
[7] (2000) 3 SCC 143

notification under Section 35(1) of the IFA was not treated as a jurisdictional precondition.

9.3 The High Court further held that Section 35(4) of the IFA does not create any lapse by efflux of time, and that the MPFA contains no requirement that a notice be "live" or "subsisting." The Court declined to read such a gloss into Section 2(f)(iii), rejecting arguments based on delay, abandonment, or desuetude.

9.4 Treating Section 34-A of the IFA as an inclusive interpretation clause, the High Court rejected the submission that a prior declaration under Section 34-A was a sine qua non for measures under Section 35 of the IFA or for invoking Section 2(f)(iii) of the MPFA.

9.5 On vesting and its incidents, the High Court concluded that Section 3 of the MPFA, with its non obstante clause, prevailed over inconsistent zoning, permissions, or exemptions under other enactments. Development plans under the Maharashtra Regional and Town Planning Act, 1966 and proceedings under the Urban Land Ceiling law could not defeat statutory vesting. The impugned revenue mutations and annotations were sustained as ministerial reflections of such vesting, and objections based on the MLRC were not accepted, particularly in light of directions issued in public-interest proceedings to update records.

9.6 Reliance was placed on the presumption of regularity of official acts; the fact that many petitioners were derivative owners without personal knowledge of the original events

was noted. On this reasoning, the writ petitions were dismissed.

10. The judgement *in* ***Oberoi Constructions Private Limited v. State of Maharashtra (supra)*** was challenged in this Court and decided by a three Judge Bench on 30.01.2014 and has been the prevailing precedent in such matters *viz*. **Godrej & Boyce (supra)** . This Court gave the following findings:

10.1 This Court held that the mere issuance of a notice under Section 35(3) of the IFA is not, by itself, sufficient to treat land as a "private forest" within Section 2(f)(iii) of the MPFA. The answer to the principal question was returned in the negative.

10.2 Interpreting the expression "a notice has been issued" in Section 2(f)(iii) of the MPFA, when read with Section 35 of the IFA, the Court held that "issuance" cannot be divorced from service. Given the statutory scheme, a valid notice under Section 35(3) of the IFA necessarily entails service on the owner, an opportunity to file objections, to adduce evidence, and to be heard. Because interim restraints may be imposed under Section 35(4) of the IFA and penal consequences attach under Section 35(7) of the IFA, service is inherent to the process. Section 35(5) of the IFA, requiring service in the CPC manner and publication as prescribed, reinforces this conclusion.

10.3 On this basis, the view in ***Chintamani Gajanan Velkar (Supra)*** that a bare, unserved notice sufficed for Section 2(f)(iii) of the MPFA was found to have overlooked the Bombay/Maharashtra amendments to Section 35 of the

IFA and to have proceeded on an erroneous premise regarding the two-hectare exclusion. It was overruled to that extent.

10.4 The Court further clarified that Section 2(f)(iii) of the MPFA saves only "live" or "pipeline" notices, those issued and pursued in reasonable proximity to 30.08.1975. Notices left undecided for years or decades lapse into desuetude. The State is obliged to act within a reasonable time; a notice from 1956–57, never taken to its statutory culmination, cannot be revived to effect vesting on the appointed day.

10.5 On the definitional plane, the Court reaffirmed that the "means and includes" formulation in Section 2(c-i) of the MPFA does not dilute the primary sense of "forest". Lands long designated for urban use, developed under sanctioned plans and permissions, and integrated with municipal infrastructure could not, on the admitted facts, be regarded as "forest" either in the primary or extended sense of Section 2(c-i) of the MPFA.

10.6 Recognising the expropriatory character of the MPFA, the Court applied strict construction. Fundamental norms of fairness and good governance preclude unsettling settled civilian and commercial arrangements after prolonged State inaction, particularly where the State itself facilitated and acquiesced in development over decades.

10.7 Even assuming arguendo that the lands were forest, wholesale demolition and dispossession after half a century was neither feasible nor in the public interest on the facts recorded. The equities of third-party purchasers and

residents, the State's prolonged acquiescence, and the practical impossibility of "restoration" militated against such a course.

10.8 In consequence, the appeals were allowed, the High Court's judgement was set aside, and actions premised solely on stale notices under Section 35(3) of the IFA were quashed.

11. After the judgement of ***Godrej and Boyce (supra)***, the High Court has followed it as a binding precedent and used its findings to decide similar matters, whose facts are akin to those of the appellants before us. Some of these are enlisted hereunder:

11.1 ***Satellite Developers Ltd. v. State of Maharashtra***[8]*:* Here the High Court held that mere issuance of a notice under Section 35(3) of the IFA does not vest land in the State. It further observed that entries made in 2006 pursuant to directions in a public interest litigation would not, by themselves, effect vesting, particularly when no further steps under Section 35(3), Section 35(4), and Section 35(5) of the IFA were undertaken.

11.2 ***Sinhagad Technical Education Society v. Deputy Conservator of Forests***[9]: In the case of a subsequent purchaser, the High Court reaffirmed that service of notice under Section 35(3) of the IFA is mandatory.

11.3 ***Ozone Land Agro Pvt. Ltd. v. State of Maharashtra***[10]*:* Emphasising ***Godrej and Boyce (supra)***, the High Court

[8] 2014 SCC OnLine Bom 66
[9] 2015 SCC OnLine Bom 293
[10] 2015 SCC OnLine Bom 5832

reiterated that mere issuance of a notice under Section 35(3) of the IFA is not sufficient to vest land with the State and declined a remand as futile given the authorities' stated stance.

11.4 ***Arjun Sitaram Nitanwar (Dr.) v. Tahsildar, District Thane***[11]*:* The High Court held that a bare Section 35(3) notice under the IFA is insufficient to effect vesting.

11.5 ***Lalit A. Sangtani v. State of Maharashtra***[12]: The High Court underscored that due service of a notice under Section 35(3) of the IFA is mandatory.

11.6 ***Bharat Chandulal Nanavati v. Union of India***[13]*:* Addressing a subsequent purchaser and proceedings under Section 22A of the MPFA, the High Court held that "issued" in Section 2(f)(iii) of the MPFA necessarily includes service. Finding no proof or contemporaneous record of service of the notice dated 17.02.1956, the High Court concluded that proceedings under Section 22A of the MPFA could not be founded merely on Section 2(f)(iii) of the MPFA.

11.7 ***Global Estate Developers v. State of Maharashtra***[14]: The High Court confined itself to whether the land qualified as "private forest" under the MPFA and reiterated the mandate of service under Section 35(3) of the IFA.

11.8 ***Indrajeet Kashinath Kaiswal v. State of Maharashtra***[15]*:* The High Court clarified that Section 2(f)(iii) of the MPFA applies only to "live" or "pipeline"

[11] 2015 SCC OnLine Bom 295
[12] 2016 SCC OnLine Bom 248
[13] 2015 SCC OnLine Bom 3862
[14] 2017 SCC OnLine Bom 8345
[15] 2015 SCC OnLine Bom 6743

notices under Section 35(3) of the IFA, not stale notices left undecided.

11.9 ***Nana Govind Gavate v. State of Maharashtra***[16]: In a matter involving acquisition and subsequent return, the High Court again insisted upon proof of service of the notice under Section 35(3) of the IFA.

11.10 ***Shree Maruti Sansthan Trust v. State of Maharashtra***[17]*:* For a subsequent purchaser, the High Court noted that apart from an entry in the "Golden Register" there was no material showing issuance and/or service of a notice under Section 35(3) of the IFA.

11.11 ***Vishram Vishwanath Kunte v. State of Maharashtra***[18]: During the pendency of an inquiry under Section 22A of the MPFA, a mutation entry branded the land as forest; the High Court deprecated recurring affidavits from State officers asserting that ***Godrej and Boyce (supra)*** laid down no law, terming this "continued defiance of the law laid down by the Supreme Court in Godrej & Boyce…".

12. However, for the present appellants, whose facts are similar to those of the various petitioners in the different judgements of the High Court as well as those in ***Godrej and Boyce (Supra)*** discussed above, the High Court vide the impugned judgment and order dated 28.09.2018 dismissed all the writ petitions. It would be worthwhile to record here that one member of the Division Bench of the High Court had authored

[16] 2016 SCC OnLine Bom 340
[17] 2015 SCC OnLine Bom 7074
[18] WP No. 594 of 2022, decided on 16.09.2022

the decision in ***Oberoi Constructions Private Limited v. State of Maharashtra (Supra)*** that was later overturned in ***Godrej and Boyce (supra)***. The impugned judgment proceeds on the following reasons:

12.1 The High Court framed the primary issue as whether ***Godrej and Boyce (supra)*** applied, and secondly whether subsequent purchasers could rely upon it when their predecessors-in-title had not questioned the applicability of the MPFA or the steps taken thereunder.

12.2 Proceeding from Section 3 of the MPFA, the High Court held that vesting of all "private forests" was complete on the appointed day (30.08.1975) and that any post-1975 transactions were ineffectual to confer title. Mutation entries made in 2002 were treated as a ministerial reflection of an earlier vesting rather than its source.

12.3 On Section 35 process under the IFA, the High Court accepted the State's case that notices under Section 35(3) of the IFA had been issued and served, and, in several matters, that a notification under Section 35(1) of the IFA was in force before the appointed day. Reliance was placed on the "Golden Register", Gazette extracts, possession notices referable to Section 5 of the MPFA, lists circulated in 1976, and panchanamas; the contrary pleadings of the petitioners were described as guarded or vague.

12.4 The High Court distinguished ***Godrej and Boyce (supra)***, observing that the owners there had an earlier consent decree, long-standing sanctioned development, and an evidentiary vacuum on service and follow-through. On that

basis, the High Court treated ***Godrej and Boyce (supra)*** as fact-specific and of limited assistance to subsequent purchasers.

12.5 As to the term "issued" in Section 2(f)(iii) of the MPFA and the service requirement traced to Section 35(5) of the IFA, the High Court did not dispute the principle in ***Godrej and Boyce (supra)*** but concluded that, on the records cited, the requirement stood satisfied in these matters.

12.6 On "stale" versus "live" notices, the High Court read ***Godrej and Boyce (supra)*** as context-bound and, in any event, held that even if Section 2(f)(iii) of the MPFA were unavailable, the State could succeed on the primary definition of "forest" in Section 2(c-i) of the MPFA, including by reference to natural growth and contiguity with reserved forest.

12.7 The High Court emphasised that most petitioners were subsequent purchasers who came on the scene long after 30.08.1975, and stated it was "surprising" that they sought to contest service under Section 35(3) of the IFA without affidavits from original owners or contemporaneous material; burden was effectively placed on the petitioners to dislodge official records.

12.8 Entries describing lands as "Private Forest-Forest Department" were justified as having been made pursuant to directions in PIL No. 17 of 2002 and Government circulars; the High Court considered the challenge to such entries, decades after vesting, to be misconceived.

12.9 Arguments based on Section 21 of the MPFA were rejected; the High Court treated that provision as an enabling route, not a precondition to vesting already effected by Section 3 of the MPFA.

12.10 Contentions invoking the two-hectare exclusion in Section 2(f)(iii) of the MPFA were declined, the High Court holding that later allotment of gata/survey sub-divisions could not undo vesting.

12.11 Objections raised under Section 22A of the MPFA and to certificates under Section 6 of the MPFA were addressed with reference to the Forest (Conservation) Act, 1980, the High Court reiterating that prior approval under that Act was necessary and past non-compliant issuances could not aid the petitioners.

12.12 While one exceptional matter (e.g., involving long-standing urban use or missing records) was remitted for verification by the Collector, the High Court otherwise dismissed the petitions, characterising several as commercially motivated and not bona fide, and cautioning that entertaining them would weaken forest protection.

13. We have gone through the comprehensive material on record, the submissions of the learned counsel for the appellants and for the respondent-State, as well as the impugned order of the High Court. Having done so, we are of the considered view that the impugned judgment of the High Court cannot be sustained for the following reasons:

13.1 In our opinion, the controlling legal position is settled. For vesting to occur under Section 3(1) of the MPFA Act on the

footing of Section 2(f)(iii), a notice under Section 35(3) of the IFA must not only be issued but must also be served upon the landholder. The expression "issued" in Section 2(f)(iii) of the MPFA Act comprehends due service on the owner, because service alone triggers the owner's right to object, including the jurisdictional plea that the land is not a forest within Section 2(c-i) of the MPFA Act, and obliges the State to consider such objection. We are unable to agree with the High Court that the reproduction of a draft text of Section 35(1) beneath a Section 35(3) show cause in the Gazette amounts to a concluded notification under Section 35(1) of the IFA. A notice that grants time for objections cannot coexist with a final decision under Section 35(1) without rendering the statutory hearing illusory. Mutation entries are ministerial in nature and cannot perfect an acquisition that lacks the statutory predicates. They neither create title in the State nor divest title from the private owner.

13.2 On the facts across these appeals, we find that the essential links in the statutory chain are missing. There is no proof of service of any Section 35(3) notice of the IFA on the then owners. There is no final notification under Section 35(1) of the IFA. Actual possession has at all times remained with private owners and this position is reflected in the revenue records that describe them as occupants. No possession was taken under Section 5 of the MPFA Act, no schemes were set in motion under Section 4, no compensation exercise was undertaken under Section 7, and no inquiry under Section 6 was held at a time proximate to the

appointed day of 30 August 1975. The materials produced by the State include undated and unverified possession papers that do not inspire confidence when set against decades of undisturbed private possession. In one instance the State relies on a pipeline notice which was addressed to a person who was not the owner as on 29 or 30 August 1975. In another, the land forms part of an industrial estate converted to non-agricultural use long before 1975. In yet another, there was never any claim that a Section 35(3) notice was even issued. These features are wholly inconsistent with a completed vesting under Section 3(1) of the MPFA Act.

13.3 We are not persuaded by the Respondent State's reliance on post-hoc material. Satellite imagery and panchnamas drawn in 2016 do not establish the character of the lands on the appointed day, which is the only relevant date for Section 3(1) of the MPFA Act. A nineteenth century notification, invoked for the first time at the appellate stage to suggest linkage with a reserved forest, was not the foundation of the impugned mutations and cannot be used to improve the case now. The administrative orders must stand or fall on the reasons originally given and the High Court could not sustain vesting on grounds that were never the basis of action. The absence of any notification under Section 34A of the IFA further weakens the State's position. We also find merit in the submission that a restoration under Section 22A of the MPFA Act presupposes a lawful vesting. When the foundational vesting is unproven, any

purported restoration cannot cure the defect, and in any event the limited window created by Section 22A cannot be reopened decades later. Expropriatory legislation must be construed strictly and Article 300-A of the Constitution requires that no person is deprived of property save by authority of law. When a statute prescribes a manner of doing a thing, it must be done in that manner or not at all. Here, several mandatory steps are absent. Any one missing step would defeat vesting. The High Court was therefore in error in treating the case as if only a consequential mutation remained.

13.4 We are also unable to accept the distinctions drawn by the High Court. The binding ratio on service, on the need for a live process, and on strict compliance does not turn on whether an appellant is an original owner or a subsequent purchaser. It also does not turn on whether construction has occurred on the land. The State itself has, on earlier occasions, recognised that subsequent purchasers cannot be prejudiced by undisclosed proceedings which they had no means to discover. The record here shows that the revenue entries continued to carry the names of the private owners, which indicates that even the State did not treat these lands as vested forests. To hold that a subsequent purchaser is in a worse position than one who developed land would invert the logic of the statute and would reward illegality while penalising restraint. We reject that approach.

13.5 We are further of the view that a remand for an inquiry under Section 6 of the MPFA Act is neither warranted nor efficacious. Such an inquiry is designed to be contemporaneous with the appointed day so that meaningful evidence on the character of the land can be adduced by both sides. After the passage of nearly half a century, that exercise would be largely academic and would not cure the absence of the mandatory preconditions of a served notice under Section 35(3) of the IFA and a lawful progression towards a notification under Section 35(1). The authorities have also adopted a concluded litigating stance on the very matters they would be called upon to decide, which would not inspire confidence in the fairness of any remanded proceeding. In our opinion, the impugned judgment rests on a misreading of the Gazette, an impermissible dilution of mandatory statutory steps, and reliance on materials that are extraneous to the original basis of action. It therefore cannot be sustained.

14. While the High Court in the impugned judgement dismissed all the writ petitions by a common order, it did not attempt any principled differentiation among the petitions before it. Having closely examined the record, and in order to assess the distinctions the High Court is said to have perceived with the petitioners in ***Godrej and Boyce (Supra)***, we have undertaken our own classification for clarity. We have no hesitation in stating that had this exercise been undertaken by the High Court in the impugned judgement, considerable judicial time could have been saved and directed to the

unsettled legal questions on which many litigants rest their hopes. It is with this consideration in mind that we proceeded to categorise the 96 civil appeals into 3 categories.

14.1 The first category concerns the status of ownership, that is to say whether the appellants' title was derived before or after the alleged notices under IFA were issued around 1960s by the State Government. For clarification, if a title is devolved by inheritance subsequently but if the land has been owned by the same family throughout, the ownership would be deemed to be continuing since the land came first in the family's possession. On our analysis, 77 appeals involve derivative title and 19 involve continuing or ongoing title. The second category concerns the period of ownership, namely whether ownership commenced before or after the enforcement of MPFA. In this category, 72 appellants acquired ownership after MPFA and 24 appellants owned the land before MPFA. The third category concerns the existence of construction on the subject lands. In this category, 26 appellants have raised some form of construction on the subject lands, while 70 appellants have not raised construction or the position is not clearly established on the materials placed on record.

14.2 After this categorisation, we are satisfied that there is no legally relevant distinction between the present cases and the decision in ***Godrej and Boyce (Supra)***. The ratio in ***Godrej and Boyce (Supra)*** turns on service of a notice under Section 35(3) of the IFA, the existence of a live process capable of culminating in a notification under

Section 35(1) of the IFA, and strict compliance with the statutory steps that alone can support vesting under Section 3(1) of the MPFA Act on the footing of Section 2(f)(iii). The record before us discloses the same deficiencies that were fatal in ***Godrej and Boyce (Supra)***. There is no proof of service of any notice under Section 35(3) of the IFA on the then owners. There is no final notification under Section 35(1) of the IFA. Possession has remained with private owners throughout. No contemporaneous action was taken under Sections 4, 5, 6 or 7 of the MPFA Act. These features mirror the very elements that led this Court to hold that vesting had not occurred in ***Godrej and Boyce (Supra)***.

14.3 We do not accept the distinctions on which the High Court sought to sidestep ***Godrej and Boyce (Supra)***. The fact that some appellants are subsequent purchasers does not diminish the requirement of service and a live statutory process. ***Godrej and Boyce (Supra)*** itself concerned a batch in which many parties were not original owners, yet the controlling principles were applied uniformly. The presence or absence of construction is equally irrelevant to the legal question of vesting. What matters is compliance with the prerequisites of the MPFA Act and the IFA. The present record shows revenue entries that continued to reflect private ownership and occupation. It shows a pipeline notice addressed to a person who was not the owner on the relevant date. It shows lands long converted to non-agricultural or industrial use. None of this allows

the State to dispense with service under Section 35(3) of the IFA or to conjure a final notification under Section 35(1) of the IFA from a draft placed beneath a show cause. In our opinion, the differences invoked by the High Court are insubstantial and cannot displace the binding ratio.

14.4 We find that the High Court's approach amounts to an attempt to avoid a binding precedent rather than to apply it. The impugned reasoning rests on a misreading of a Gazette publication that only reproduced a draft text and expressly invited objections. It relies on material that is subsequent to the appointed day and that was never the foundation of the impugned mutation entries. It treats mutation as if it were constitutive of title and not a ministerial reflection of underlying legal events. Each of these moves stands at odds with ***Godrej and Boyce (Supra)***, which requires strict adherence to the statutory sequence before vesting can be asserted.

14.5 Judicial discipline required faithful application of the law declared by this Court under Article 141 of the Constitution. Coordinate Benches of the High Court have consistently followed ***Godrej and Boyce (Supra)*** in closely comparable situations. The impugned judgment nonetheless revives positions that ***Godrej and Boyce (Supra)*** has rejected. We also note that the Bench was presided over by the same Judge who had earlier taken a contrary view that was set aside by this Court. We do not attribute motive. However, when a judgment minimizes a binding ratio, ignores missing statutory steps, and seeks to

distinguish on immaterial facts, it creates an appearance of a reluctance to accept precedent. Such an approach conveys a measure of pettiness that is inconsistent with the detachment that judicial reasoning demands. In our view, this is an unfortunate departure from the discipline of stare decisis.

14.6 We accordingly hold that the present appeals are indistinguishable in principle from ***Godrej and Boyce (Supra)***. The record discloses the same jurisdictional defect of non-service of a notice under Section 35(3) of the IFA, the same absence of a final notification under Section 35(1) of the IFA, and the same want of contemporaneous steps under Sections 4, 5, 6 and 7 of the MPFA Act. In such circumstances the High Court could not, consistently with Article 141 of the Constitution, avoid the binding ratio by treating immaterial differences as determinative. In our opinion, fidelity to binding precedent and to the statutory scheme admits of no other conclusion than that the impugned order must be set aside.

15. In view of the foregoing analysis, the appeals are allowed.

16. The impugned judgment and order dated 27.09.2018 of the High Court of Judicature at Bombay in Writ Petition No. 6417 of 2015, amongst others, is set aside. The writ petitions before the High Court in the aforementioned matter are allowed. All mutation orders and any declarations treating the subject lands as private forests are quashed and set aside. Consequential corrections be made in the revenue records.

17. Liberty is reserved to the State to initiate such proceedings, in accordance with law, as per the relevant Statutes and to bring them to a logical conclusion after following due process of law.

18. All pending application(s), if any, stand disposed of.

.....J.
[VIKRAM NATH]

.....J.
[PRASANNA B. VARALE]

NEW DELHI
NOVEMBER 07, 2025