

The Maharashtra Private Forests (Acquisition) Act, 1975

Act 29 of 1975

Keyword(s):

Code, Collector, Forest Act, Private Forest, Tribunal

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THE MAHARASHTRA PRIVATE FORESTS (ACQUISITION) ACT, 1975

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MAHARASHTRA ACT No. XXIX OF 1975¹

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

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

Amended by Mah. 72 of 1975 *(1-10-1975)†

.. .. 14 of 1978 **(26-4-1978)†

.. .. 5 of 1980 (12-2-1980)†

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 in the lower level agricultural lands, for conserving soil moisture, for improvement of the water regime and raising the water table, for retarding the siltation 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 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 forest and other land in the State, and for undertaking schemes ³[for such purposes;

AND WHEREAS it is also expedient to provide that in the case of owners of private forests (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 revested in, them, so that their total holdings of lands may be twelve hectares or less, as the case may be, and

¹For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1975, Part V, p. 560.

²This preamble was deemed always to have been substituted for the original by Mah. 72 of 1975, s. 2.

³These 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.

*Maharashtra Ordinance No. XIII of 1975 was repealed by Mah. 72 of 1975 s. 6.

†This indicates the date of commencement of Act.

**Maharashtra Ordinance No. II of 1978 was repealed by Mah. 14 of 1978, s. 5.

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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 :—

Short title,
extent and
commence-
ment.

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 as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions

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 ;

Mah.
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of
1966.

[(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 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 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] ;

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

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of
1927.

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

(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 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 ;

130th August 1975, vide G. N., R and F.D., No. PRF. 1073/40845-F-2, dated 29th August 1975.
*Clause (c-i) was deemed always to have been inserted by Mah. 72 of 1975, s. 2.



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(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 ;

(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 meanings 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 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 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
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 Mah. by section 5 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, XXVII 1961, for the time being in force or any building or structure standing thereon of or appurtenant thereto. 1951.

(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 lands and utilising them according to their capability including pastures, for regulating the felling of trees on scientific lines, for promoting soil and water conservation as will best subserve agriculture, ¹for distribution of the 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 the forest produce in the best interests of agriculture and 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 of adivasis and other based on forest produce and schemes calculated to meet fuel requirements.]

²[5. 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.]

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 the decision of the Collector, or the order of the State Government under section 18, be final.

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 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.

8. Any owner of 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.

¹ 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.
² Section 5 was deemed always to have been substituted for the original, *ibid.*, s. 5.

Collector to determine amount. 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.

(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.

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

(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 the amount is paid.

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

(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 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 amongst 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 a 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 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 situate. 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 encumbrances 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

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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 private forest under section 7.

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

V of
1908.

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

(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.

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. Limitation.

36 of
1963.

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

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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 Collector and Tribunal to be judicial proceedings.

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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 or 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 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.

(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 a 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 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 the publication of the notification under sub-section (5), or as the case may be, till the date of communicating the decision under sub-section (7), whichever period expires 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 lopping 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 provisions 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.

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.

1[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 Forests (Acquisition) (Amendment) Act, 1978, or *suo motu* at any time, the Collector, after holding such inquiry as he deems fit, is satisfied that the total holding of 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 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.

Restoration of forest land to owner in certain circumstances.

Mah. XIV of 1978.

(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 revested 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 holders 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 revested in the owner.

(4) Notwithstanding anything contained 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 himself or 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

(b) pass such order thereon as he or 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.

¹Section 22A was inserted by Mah. 14 of 1978, s. 3.

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(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.]

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

Power to make rules. 23. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition 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.

(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.

Repeal of sections 34A to 37 of Forest Act. 24. ²[(1)] On and from the appointed day, sections 34A, 35, 36, 36A, 36B, 36C and 37 of the Forest Act shall stand repealed.

³[(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.] **Mah. XIV of 1978.**

¹Section 22B was inserted by Mah. 5 of 1980, s. 2.

²Section 24 was re-numbered as sub-section (1), by Mah. 14 of 1978, s. 4.

³Sub-section (2) was added, *ibid.*, s. 4.