

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH
AT AURANGABAD**

WRIT PETITION NO. 4320 OF 2000

Kazi Fasihuddin Kazi Hesamoddin
(Died), through L. Rs.,
Kazi Zamiruddin Kazi Fasihuddin
and Others .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri S. S. Kazi, Advocate for the Petitioner

Shri U. S. Mote, A. G. P. for the Respondent / State

Shri K. G. Khader, Advocate for the Respondent No. 5

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.**

DATE : 30TH APRIL, 2015.

PER COURT :

1. Mr. Kazi the learned counsel submits that, the land in question is Khidmatmash Inam land. It is given to the forefathers of the petitioners for rendering service to the 'Kali Masjid', Gangapur. The learned counsel submits that, succession is also granted in favour of the present petitioners. The land is being given on Ek-Sala Laoni basis. As the succession is now issued in favour of the petitioners, the petitioners are entitled for the possession of the said land. The petitioners are also entitled for the amount of Rs. 11,000/-.

2. We have heard the learned A. G. P. also.

3. This Court vide order dated 06th June, 2002 had admitted the petition. While admitting the petition it was observed by the Court that, it was open for the deceased petitioner to apply to the State Government for refund of Rs. 11,000/- and if such application is made, the authority was directed to pass appropriate order on the same.

4. We have considered the submissions canvassed by the learned counsel for the petitioners. Mr. Kazi the learned counsel accepts that, the provisions of the Atiyat Inquiries Act, would apply. In light of that, it would be appropriate for the petitioners to approach the authority under the Atiyat Inquiries Act for the prayers made in the present petition. In case such application is made by the petitioners before the authority constituted under the Atiyat Inquiries Act, the said authority shall consider the application of the petitioners on its own merit in accordance with law and procedure after hearing all concerned and decide the said application expeditiously.

5. Writ Petition accordingly disposed of. It is made clear that, we have not considered the case of the petitioners on merits. All contentions are kept open.

[A. I. S. CHEEMA, J.]

[S. V. GANGAPURWALA, J.]