

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2668 OF 2009
WITH CA/8423/2014 IN WP/2668/2009

SOW LAXMIBAI BHANUDAS GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

. . .

Advocate for Petitioner : Mr. V. R. Sonvalkar.
AGP for Respondent Nos.1 to 3 : Mr. S. G. Karlekar.
Advocate for Respondent Nos.4 to 9 : Mr. R. A. Deshmukh, Advocate h/f
Mr. S.S. Thombre.

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**CORAM : S. V. GANGAPURWALA &
A. M. BADAR, JJ.**

DATE : 24th FEBRUARY, 2016.

PER COURT:

1] Mr. Sonvalkar, learned counsel for the petitioner submits that the petitioner, being a landless person, was allotted 3 acres and 32 Gunthas, of land out of Gat No. 82 (Survey No. 159), which was declared as surplus land under the Ceiling Act. However, the respondents, in the year 2002, issued a fresh proclamation and allotted the said land to others. The petitioner, though, was given symbolic possession, was not given the actual possession. The petition is filed for the possession of the land allotted to her.

2] Mr. Karlekar, learned counsel submits that petitioner was allotted 3 Acres 32 Guntha land as stated by the petitioner. However, as litigation was pending up to the Apex Court, because of long time gap, the respondents issued fresh proclamation in the year 2002, inviting applications. 42 applications were received. Petitioner did not even apply for the same nor raised any objection to the proclamation. Hence, the lands were allotted to the deserving persons. According to learned AGP, affidavit is filed by the authority stating that if alternate land is available, the

petitioner would be allotted the alternate land. According to AGP, there is no surplus land available at present under the Ceiling Act.

3] We have considered the submissions. From the record, it appears that the petitioner was allotted 3 Acres 32 Gunthas land from Gat No. 82, Survey No. 159, situated at Majalgaon. Even symbolical possession was given to the petitioner. However, possession of the land could not be given as litigation was pending and prohibitory orders were passed by the Court. The said litigation went on upto the year 2004. During the meantime, in 2002, the respondents authorities issued fresh proclamation thereby inviting applications for allotment of surplus land. 42 applications were received and thereafter lands were allotted. At the relevant time, the petitioner did not raise any objection nor filed any application. It would also not be appropriate to dislodge the persons who have been allotted the said land in the year 2002.

4] The fact remains that the petitioner was allotted 3 Acres 32 Gunthas of surplus land and would be entitled for the same. The respondent authorities shall consider any other available land in the said region, i.e. Majalgaon, for allotment to the petitioner, expeditiously. The claim of the petitioner shall be considered on priority basis in that regard. Rule made absolute accordingly. Civil application, if any, stands disposed of. No costs.

[A.M. BADAR]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

grt/-