

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION N.14357 OF 2016**

Smt. Gulabbai Gopal Ghodke through
her General Power of Attorney Holder
Shri Bhalchandra Gopal Ghodke

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

.....

Ms Avanti Inamdar h/f Mr. Rameshwar Gite for the Petitioner.
Mr. Manish Pabale, AGP for the Respondent No.1-State.

**CORAM : A.S. OKA &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 7th MARCH, 2017.

P.C.:-

Heard the learned counsel appearing for the Petitioner and the learned AGP for the State. The Petitioner is the widow of late Gopal Ramchandra Ghodke. According to the case made out in the Petition, late Gopal was appointed in the Indian Army on 1st April, 1954. He retired from the employment on 30th November, 1974. It is claimed that late Gopal Ghodke was awarded “Raksha Medal” as well as “Sangram Medal”. There is an additional affidavit filed by the Petitioner, which is dated 27th February, 2017 to which a copy of the order dated 15th February, 1965 passed by the Mamlatdar, Chandwad is annexed, which shows that Plot No.1 (for short “the said Plot”) out of the land bearing Survey No.22, admeasuring 10 acres at village

Bhadane, was allotted to the said Gopal Ghodke. The Petition itself discloses that during the life time of Gopal Ghodke, by orders dated 13th December, 1990 and 14th December, 1990 the Tahasildar, Chandwad forfeited the said Plot and the same was resumed. Reliance is placed on the application dated 25th February, 1994 addressed by one Kishor, son of Gopal Ghodke to the Sub Divisional Officer, Malegaon, District-Nashik. The said letter itself refers to the order dated 14th December, 1990 passed by the Tahasildar, Chandwad of the resumption of the said plot. Going by the averments made in the Petition, thereafter on 21st April, 2010 the Petitioner made an application for grant of a land bearing Gut No.1958 situated at Adgaon, Taluka and District-Nashik.

2. The Petitioner is relying upon various Government Resolutions passed by the State Government from time to time and in particular the Government Resolution dated 30th December, 1971 as amended from time to time. The said Government Resolutions are in relation to the members of the Armed Forces and Border Security Force who have been wounded, disabled or have received awards for gallantry in Indo-Pakistan conflict of 1971, 1962 Indo-China War and 1965 Indo-Pak War. In paragraph 9 of the Petition, it is the specific

case of the Petitioner that she is entitled to an allotment of a plot of land in terms of the Government Resolution dated 30th December, 1971 as amended on 19th February, 1972.

3. Even going by the documents annexed to the Petition and the additional affidavit, it is not possible to grant any relief to the Petitioner. By an order dated 15th February, 1965 the said Plot was allotted to late Gopal Ghodke. The application made by the Petitioner's sons Bhalchandra and Kishore on 20th February, 1994 (Exhibit-A) shows that both of them were aware of the order of forfeiture /resumption dated 14th December, 1990 passed in respect of the said Plot. In fact, if the said Bhalchandra is the constituted attorney of the Petitioner and he has affirmed the affidavit in support of the Petitioner. Thus, in the year 1994 the legal representatives of late Gopal Ghodke were having the knowledge of the fact that during the life time of Gopal Ghodke, the said Plot was allotted to late Gopal and in the year 1990, the said Plot was resumed by the State Government. In fact, effect was given to the said order in the year 1990 itself by making a mutation entry.

4. We have also perused the documents annexed to the Petition. There is no document annexed to the Petition which shows

that the said Gopal Ghodke fulfilled the criteria laid down in the Government Resolution dated 30th December, 1971 as modified by subsequent Government Resolutions. There is no material placed on record to show that award for gallantry was conferred upon Gopal Ghodke. There is no document annexed to show that said Gopal was either wounded or became disabled by participating in Indo-China war -1962, Indo Pak war-1965 and Indo-Pakistan conflict-1971.

5. Therefore, the prayer made in this Petition for issuing a writ of mandamus for grant of a land to the Petitioner cannot be entertained at all. In fact, we find that in none of the Applications which are annexed to the Petition, the Petitioner has claimed allotment of land on the basis of Government Resolution dated 30th December, 1971 as amended thereafter.

6. We, therefore, decline to entertain this Petition and the same is rejected. We, however, make it clear that if the Petitioner being the widow of Gopal Ghodke is otherwise entitled to allotment of a land, it will be open for the Petitioner to make an appropriate application before the appropriate Authority in accordance with law.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)