

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

11 WRIT PETITION NO.3439 OF 2023

PRABHU TATYABA GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

Mr.D.R.Dhumal, Advocate for the Petitioner.
Mr.S.G.Karlekar, AGP for the Respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)

DATE : JUNE 19, 2023

PER COURT :

1. The Petitioner has put forth prayer clauses B and C as under :-

"B. By issuing writ of certiorari, order, direction in the like nature, the impugned communication letter dated 10.11.2022 issued by respondent No.4 may kindly be quashed and set aside and respondents authorities may kindly be directed to grant the land in Gat No.208 admeasuring 3 H 47 R situated at village Wagholi Taluka Kallamb Dist. Osmanabad to the petitioner as early as possible and for that purpose issue necessary orders.

C. By issuing writ of mandamus, order, direction in the like nature, the respondents authorities may kindly be directed to re consider the claim

of the petitioner for grant the land in gat no.208 admeasuring 3 H 47 R situated at village Wagholi Taluka Kallamb District Osmanabad to the petitioner as early as possible and for that purpose issue necessary orders."

2. The Petitioner claims to have joined the Indian Army in 1980. His date of retirement as a Naik is not mentioned in the petition. He, however, submits that he retired in 1998. He admits that he has been cultivating the land Gat No. 208 admeasuring 3 hectares 47 R since 1990. He prays for regularization of his encroachment.

3. The learned AGP draws our attention to the GR dated 12.07.2011 wherein, the Government has introduced a scheme for regularizing encroachment. He further points out that after the Hon'ble Supreme Court delivered its judgment on 28.01.2011 in Special Leave Petition (Civil) No.3109/2011, the Government has stopped regularizing encroachments on Gairan land or village land. So also the Petitioner has not participated in the 1962, 1965 or 1971 wars with reference to which the State Government has introduced a GR wherein the family / Ex-service man is given a small portion of land.

4. In the instant case, the Petitioner derives pension on account of having retired from the armed forces. He has not placed on record any such scheme under which a retired army man can be granted land by the State Government.

5. In view of the above, **this petition**, being devoid of merit, is therefore, **dismissed**.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)