

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO. 1295 OF 2026
IN
SUIT NO. 952 OF 2012**

Colonel (Retired) Abhijit Gopal Kadam ...Applicant
V/s.
Parichar Aflatoon Khairabadi and Ors. ...Respondents

Ms. Pooja Shah with Mr.J. K. Shah i/b R.J. Law for the Applicant.
None for the Respondents.

CORAM : **ABHAY AHUJA, J.**
DATE : **1st APRIL, 2026**

P.C. :

1. This Interim Application, filed by Colonel Abhijit Gopal Kadam (retired), aged 59 years, seeks directions for the refund of Court fees of Rs. 3,00,000/- paid by him for the institution of the Suit No. 952 of 2012, which is pending in this Court in view of the Government Notification No. CTF/1771/83959-M-1 issued on 2nd March, 1977 by the Revenue and Forest Department, State of Maharashtra under Section 46 of the Bombay Court Fees Act,1959 (the "said Notification").

2. Ms. Shah, learned Counsel appears for the Applicant and submits that by virtue of the said Notification, the Government of Maharashtra has remitted in the whole of the State of Maharashtra, the fees payable in respect of any documents of any of the kind specified in the Schedule

I and Schedule II annexed to the Bombay Court Fees Act, 1959 (the “said Act”), which are to be filed, exhibited or recorded in any Civil or Criminal Court by a retired or honourably discharged Indian soldier or a member of his family.

3. Drawing this Court’s attention to the Explanation to the said Notification, Ms. Shah submits that an Indian Soldier means any person subject to the Army Act, 1950 or the Air Force Act, 1960 or the Navy Act, 1957, who is domiciled in the State of Maharashtra. Further, drawing this Court’s attention to page 11 of the Application, Ms. Shah submits that the Applicant is domiciled in the State of Maharashtra by birth and choice as can be seen from the said certificate.

4. Ms. Shah submits that in a Misc. Petition (L) No. 3956 of 2026 for legal heirship certificate filed by the very same Applicant as the Petitioner, the Taxing Master of this Court, by order dated 23rd February, 2026 has exempted the very same Applicant, who is the Petitioner therein, from payment of Court fees, in view of the very same Notification.

5. I have perused the said Notification issued under Section 46 of the said Act by the Government of Maharashtra on 2nd March, 1977 and

note that the said Notification remits in the whole State of Maharashtra, the fees payable in respect of any documents of any of the kind specified in the Schedule I and Schedule II annexed to the said Act, which are to be filed, exhibited or recorded in any Civil or Criminal Court by a retired or honourably discharged Indian soldier or a member of his family.

6. Entry 23 of the Schedule II to the said Act refers to a Plaint filed in the Civil Court. Since an order has already been passed by the Taxing Master of this Court on 23rd February, 2026 *albeit* in a Petition for legal heirship in the case of the Applicant / original Plaintiff, who has been exempted in the said Application from payment of Court fees, it cannot be doubted that the Applicant / original Plaintiff is an Indian soldier within the meaning of Explanation (a) of the said Notification. As can further be seen from Exhibit-D to the Application that the Applicant / original Plaintiff is domiciled in the State of Maharashtra.

7. **ORDER**

(i) Accordingly, the said Notification does apply to the Applicant / original Plaintiff and this Court is of the view that the Application be allowed and the Court fees of Rs. 3,00,000/- as stated to be paid in

paragraph 31 of the Plaint by the Applicant / original Plaintiff be refunded to the Plaintiff within a period of four weeks. Ordered accordingly.

(ii) This brings me the much larger issue that would allay the difficulties that an Indian soldier would be facing while filing proceedings before Courts in the State of Maharashtra, in respect of documents in Schedule I and Schedule II of the said Act and therefore, in the larger interest of Indian soldiers, I pass the following order:-

(a) Let the counters in the High Court of Judicature at Bombay, where the Civil and Criminal proceedings as specified in Schedule I and Schedule II of the said Act are filed, clearly exhibit this Notification No. CTF/1771/83959-M-1 dated 2nd March, 1977 and also the clerk receiving such proceedings to clearly indicate to an Indian soldier filing proceedings that if he is domiciled in State of Maharashtra, that the Court fees has been remitted by the said Notification and that it is not necessary for payment of Court fees by the Indian soldiers seeking to institute the proceedings specified in Schedule I and Schedule II of the said Act, of course after verifying the credentials of the Indian soldier.

(b) Let this direction be widely publicised and also be sent to the Public Information Bureau of the State as well as the Union of India and also to be put up on the website of this Court.

(c) Let the Registrar General, Registrar-II (Judl.) as well as the Prothonotary & Senior Master of this Court place a report before this Court in compliance of this direction.

8. Although the Interim Application is allowed and disposed as above, however, only for the purposes of compliance of directions given in larger interest, list on **29th April, 2026 on the supplementary board.**

(ABHAY AHUJA, J.)

Digitally
signed by
NIKITA
YOGESH
GADGIL
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